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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.120 OF 2021

Santosh Jagdevrao Suryawanshi
(Deshmukh) = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT/S

Mr.Sachin S.Deshmukh, Advocate for Applicant/s;

Mr.SY Mahajan, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.

RESERVED ON : 12/03/2021

PRONOUNCED ON : 06/05/2021

PER COURT :-

1. Present applicant has been arrested in connection with CR No.325/2020 dated 3.9.2020 by Hingoli Rural police station, District Hingoli for the offences punishable under Sections 489(A), 489(B), 489(C), 489(D), 489(E), 420, 201, 120(B) read with 34 of IPC. The present application has been filed under Section 439 of Cr.P.C.

2. Heard Shri Sachin Deshmukh learned Advocate for the applicant and Shri SY Mahajan, learned APP for Respondent-State.

3. It has been vehemently submitted on behalf of the applicant that perusal of the FIR and the charge sheet would show that now the

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investigation is over and charge sheet is filed, therefore, further physical custody of the applicant is not required for the purpose of investigation. The charge sheet is filed against ten persons, including the present applicant. It appears that on the basis of the statement of co-accused Arshad Shaikh, further things have moved. That statement has no legal admissibility. Most of the accused persons are enlarged on bail. When the bail application of co-accused Nitin Pachkore was heard and decided, it was observed that it is not clear from house search panchanama as to whether the currency notes were counterfeit currency and the report is also not placed on record. Name in respect of the person, from whom the currency notes were recovered, has been kept blank. Though the report given by the General Manager, Currency Note Press, Nasik Road, Nasik, is on record, the other legalities in the matter will have to be tested. Perusal of the FIR and the seizure panchanama would show that secret information was received in which name of the present applicant was mentioned along with a lady and co-accused are running a racket of counterfeit currency. It is then stated that raid was conducted in the house of one Arun Hanwate. The lady opened the door and disclosed her identity as Chayabai Bhuktar, to whom the raiding party asked as to whether Santosh resides there, whereupon she answered in the affirmative, but he has gone out. After informing her intention to take search, the present applicant went there, disclosed his name and then in his presence, it is stated that, the

raid was conducted. Apart from the currency notes, laptop and other articles have also been seized. So also, some idols of Lord Mahalaxmi were also seized, which the racket used them to cheat the persons. However, it cannot be said that all the compliance for the search and seizure would have been complied with. Since the investigation is over, custody is not required, he deserves to be released on bail. On the ground of parity, he deserves to be released on bail.

4. Per contra, learned APP strongly opposed the application and submitted that all the legalities and formalities have been complied with. The search is undertaken under Section 165 of Cr.P.C. and the objectionable articles have been found. Though initially the applicant was not present; yet before the search could be started, he had come and the entire search operation has been conducted in his presence. Huge amount of fake currency notes have been found which were thereafter used for cheating the persons. The present applicant was the person, who was printing those fake currency notes. If the value of those fake currency notes to be counted, on the face of it, it is to the tune of Rs.17,47,350/-. Such offences are against the country's economy and, therefore, no leniency needs to be shown to the applicant. Present applicant has criminal antecedents. Offence under Section 420 read with 34 of IPC, vide CR No.71/2019 has been registered against the present applicant and co-accused at

Washim. Another offence under Section 328, 272, 273 of IPC has been registered against him vide CR No.328/2020 with Hingoli Rural police station. It appears that he is on bail in those offences; yet he has committed the another offence. This is also one of the grounds, on which, he need not be released on bail.

5. At the outset, the FIR that is lodged by Assistant Sub-Inspector – Omkant Chincholkar would show that they had received the information that the present applicant, along with lady and co-accused, were possessing fake currency notes in the house of one Arun Hanwate. The raid was arranged and when the raiding party went in front of the house of Arun Hanwate and called the persons from the house, a lady came out, who disclosed her identity as Chayabai Bhuktar. On enquiry, she told that the present applicant resides there, but at present he has gone out. When the raiding party gave indication and intention to the said lady to have house search, in the meantime, the present applicant came and in his presence the house was searched. Many fake currency notes, cutter, printer, fake number-plate of a car and ten genuine currency notes of Rs.500/- were found. The fake currency notes could be identified by the raiding party as it was printed on the same "Children Bank". However, they were resembling like genuine Indian currency notes. Certain statements are also included in the FIR, which is the information that was disclosed by the present applicant on enquiry.

That may not be admissible. As regards the seizure of the articles is concerned, a detailed panchanama has been prepared. Submissions were also heard on the point as to whether the house search could have been done in the house, either under Section 165 of Cr.P.C. or Section 100 of Cr.P.C. It is the submission on behalf of learned APP that the search was under Section 165 of Cr.P.C., especially subsection (1) thereof and, therefore, the rigours of section 100 of Cr.P.C. may not be applicable. Subsection (4) of Section 165 of Cr.P.C. is also then required to be considered, which states that as far as possible, the provisions of Section 100 of Cr.P.C. would be applicable for any house search. As regards the panchas to the house search are concerned, it appears that they are the employees of Municipal Council and their official addresses have been given and not the residential addresses. Therefore, it would be for the trial Court to consider as to whether rigours of Section 100 would be then applicable to the house search or not. It may be possible that those persons were residing in the same locality where the raid was conducted. We need not go much deeper into that aspect. The fact remains that now the fake currency notes/counterfeit notes have been recovered along with the instruments with which such currency notes could have been prepared. It was under the control of the present applicant, as it appears that he was residing at that place. As regards the fake currency or counterfeit currency notes are concerned, such offence is against the Indian

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economy and, therefore, such accused persons, who found to be possessing and who are capable of preparing such counterfeit currency notes, are required to be dealt with sternly and they do not deserve any kind of sympathy. Here in the present case, the applicant is also having criminal antecedents and it appears, taking into consideration its duration, i.e. when the offence was committed and when the accused is arrested, both the cases would be pending before the concerned Trial Court. It indicates that the applicant was on bail in those cases, still he has indulged himself in those criminal activities. Therefore, that point is also required to be considered, apart from the fact that the offence is against the Nation itself. Hence, no ground is made out to release the applicant on bail. The application deserves to be rejected. Accordingly, it is rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV