IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

917 CRIMINAL APPLICATION NO.349 OF 2021

DINESH VIKAS THACKERAY
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Applicant : Mr.Pawar Hemantkumar F.
APP for Respondent No. 1-State : Mr.R.B.Bagul

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CORAM : N.R. BORKAR , J.

DATE : 26th October, 2021.

P. C. :

1. This application under Section 482 of the Code of Criminal Procedure (for short "Cr.P.C.") takes an exception to the order dated 11.01.2021 passed by the Additional Sessions Judge, Amalner in Criminal Misc. Application No. 12 of 2020.

2. The applicant who is complainant in Crime No. 119 of 2018, registered by Amalner Police Station for the offences punishable under Sections 364A, 120B, 420, 342 of the Indian Penal Code (for short "I.P.C.") and under Section 3, Sub Section 1 (f) (r) (s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, has filed an application for the release of amount of Rs. 40,00,000/-, in his favour seized in crime in question.

3. It appears that the land of the present applicant was acquired by the Government for construction of bridge and sum of

Rs. 2 Crore 5 Lakhs was paid to the applicant towards compensation. It is alleged that accused had illegally withdrawn more than Rs. 1.2 Crores from the bank account of the applicant by misusing the details of his bank account. Initially an amount of Rs. 22,85,500/- was seized and it was released in favour of the applicant/complainant. According to the applicant the accused by deceiving him got transferred sum of Rs. 75,00,000/- from his bank account to the bank account of the accused No. 5 through R.T.G.S. and it was shown towards the earnest money for purchasing land owned by accused No. 5.

4. During the investigation an amount of Rs. 40,00,000/- was found to be lying in the account of accused No. 5. The said account of accused No. 3 was thus freezed. The present applicant had moved an application for releasing the said amount in his favour. The learned Additional Sessions Judge has allowed the said application in the following terms :

> "*(a) The application is allowed.*
>
> *(b) The amount of Rs. 40,00,000/- (rupees forty lakh only) lying in the freezed account of accused No. 5 namely, Hirkanbai Himmat Shinde in bank account No. 33513833185 at State Bank of India, Branch-Dhule, be released in favour of the informant/ applicant Dinesh Vikas Thackeray.*
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> *(c) The above amount shall be kept in any*

Nationalized Bank in the name of the applicant as fixed deposit for next three years unless the court directs otherwise by any subsequent order. The Bank will not permit any loan or advance on the fixed deposit nor permit premature closure without Court's order.

(d) The applicant shall be entitled to receive quarterly interest accrued on the said amount.

(e) The applicant shall execute Supratnama bond in the sum of Rs. 60,00,000/- and shall produce that much amount before this Court as and when directed by this Court.

(f) The applicant shall for the record of this case produce copy of fixed deposit receipt. He shall not close fixed deposit without order of this Court."

5. I have heard the learned counsel for the applicant and the learned APP for Respondent-State.

6. The learned counsel for the applicant submits that the applicant is suffering from leprosy. It is submitted that the applicant has no source of income and now he is land-less, in view of the acquisition of his land. It is submitted that the applicant needs the amount in question to meet the daily needs of his family. It is submitted that considering these facts and circumstances, the learned Additional Sessions Judge ought to have released at least 50% of the amount in favour of the applicant.

7. On the other hand, the learned APP for Respondent-State submits that considering the facts and circumstances of the case, the learned Sessions Judge, Amalner was justified in keeping the amount in question, in F.D.R. It is submitted that applicant is going to get the quarterly interest accrued on the said amount. It is submitted that no interference is therefore called for in the impugned order.

8. According to the applicant himself, he is illiterate and the accused by taking advantage of his illiteracy had withdrawn more than Rs. 1,2 Crores from his bank account by misusing his bank details. Admittedly the applicant is going to get quarterly interest on the amount in question. Considering these facts and circumstances, no fault can be found with the order impugned to the extent of directing that the amount in question be kept in F.D.R.

9. However, it is not understood as to why the applicant is directed to execute suprutnama for the sum of Rs. 60,00,000/- when the amount in question is ordered to be kept in F.D.R. The order impugned to that extent is set aside.

10. Application is disposed of in aforesaid terms.

(N.R. BORKAR)
JUDGE

mahajansb/