

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1164 OF 2020

JITU RAMESH NISHAD

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Hrishikesh Mundargi a/w. Mr.Rohan Hogle i/b. Mr.K.R.Dubey,
Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 25th OCTOBER 2021
PRONOUNCED ON : 15th NOVEMBER 2021

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.I-12 of 2020 registered with Police Station Mandawa Sagari, for offences punishable under Section 420, 465, 467, 468, 471 read with 34 and 120B of the Indian Penal Code (IPC).

2 It is the case of the prosecution that the accused named in the First Information Report (FIR) in furtherance of their common intention prepared bogus identity cards such as Aadhar Card, Pan Card etc. in the name of accused no.4 namely Suraj Prakash Bhagat with a view to grab Survey No.255, Hissa No.2 admeasuring 1-72-0 Hectare R standing in the name of informant's father. It is further alleged that they also executed registered Power of Attorney by way of impersonation in the name of Suraj Prakash Bhagat purported to be executed by informant's father and made transaction in respect of the land and got deposited an amount of Rs.50 lakh through cheque/RTGS in the said account. The said amount was further withdrawn. Accordingly, informant filed the FIR.

3 Mr.Hrishikesh Mundargi, learned counsel for the applicant, submits that the applicant has been falsely implicated on the basis of statement of prosecution witnesses namely Ashish Warde. According to the learned counsel, the alleged document in question is not prepared by the applicant nor he is holder of

bank account or signatory of account. Even the applicant is not named in the FIR. Moreover, all the documents have been seized by the police. Investigation is over and charge-sheet is filed and therefore, there is no need of custodial interrogation. Further, according to the learned counsel, the applicant is permanent resident of Dombivali-Thane and there is no question of absconding from the trial. He is ready to abide the conditions as may be imposed by this Court.

4 Mr.Dedhia, learned APP, on the other hand, submits that there is sufficient evidence on record and more particularly statement of prosecution witness Ashish Warde which clearly points out about the complicity of accused in the alleged offence. There are serious antecedents. For all these reasons, the present application does not deserve consideration.

5 I have perused the investigation papers. First of all, I may note that the alleged forgery and impersonation allegedly committed by the accused named in the FIR is in respect of

agricultural land which is, admittedly, still in possession of the informant. There is no parting of said immovable property, in any manner, on the basis of alleged forged documents.

6 According to prosecution, it was prosecution witness Ashish Warde whose statement clearly points out role of the present applicant. I have gone through the statement of said Ashish Warde. It appears that the present applicant along with others approached the informant on behalf of accused Suraj Prakash Bhagat and informed him that Suraj Prakash Bhagat intended to sell certain agricultural land. It further appears that thereafter meetings were held and then the main accused named in the FIR, namely, Amit Gupta and Suraj Prakash Bhagat came in the picture and from there onwards it is their role which matters most for the prosecution.

7 It is also to be remembered here that whole case of prosecution is based on documentary evidence. The role of the present applicant is limited to the extent that he introduced the

accused, namely, Amit Gupta and Suraj Prakash Bhagat to the informant in respect of prospective land transaction. The investigation is also completed and charge-sheet has been filed. The alleged offence neither entails death nor life imprisonment. In such circumstances, the custody of the applicant appears to be quite unwarranted.

8 Coming to criminal antecedents, learned APP during the course of argument invited my attention to the observations made by the learned trial Court in paragraph 4 of the order. The learned Additional Sessions Judge, Raigad, Alibaug, observed that the applicant has modus operandi to commit similar kind of offences and such kind of offences are registered against him at Roha and Neral. However, the details of the crime, sections with which he is charged and those offences are not discernible from the said order. It is well settled that while granting bail, the Court must take into consideration the criminal antecedents, if any, of the accused. It is a significant factor to be taken note of, regard being had to the nature of crime in respect of which he

has been booked. I have already pointed out that the details of the earlier offences are not forthcoming. I have also discussed the nature of accusations against the present applicant as unfolded by the prosecution. In my considered opinion, the criminal antecedents of the applicant are not of such nature, which, having regard to the present offence, would disentitle him from bail. For the aforesaid reasons, I am inclined to allow the application. Hence the following order :

ORDER

- (i) Applicant – Jitu Ramesh Nishad shall be released on bail in Crime No.I-12 of 2020 registered with Police Station Mandawa Sagari, on his executing PR.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the concerned police station as and when called by the Investigating Officer.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)