IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1655 OF 2021

Nitishkumar s/o Jitendra Prasadsing … **APPLICANT**

VERSUS

The State of Maharashtra … **RESPONDENT**

....

Mr. Chaitanya C. Deshpande, Advocate for applicant
Mr. V.S. Badakh, A.P.P. for respondent – State assisted by
Mr. A.D. Ostwal, Advocate with
Mr. K.D. Jadhav, Advocate for original complainant

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WITH

CRIMINAL APPLICATION NO.52 OF 2022

Changdev Sominath Tandale … **APPLICANT**

VERSUS

Nitishkumar s/o Jitendra Prasadsing
and another … **RESPONDENTS**

....

Mr. A.D. Ostwal, Advocate with
Mr. K.D. Jadhav, Advocate for applicant
Mr. Chaitanya C. Deshpande, Advocate for respondent No.1
Mr. V.S. Badakh, A.P.P. for respondent No.2 – State

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CORAM : R. G. AVACHAT, J.

DATE : 12th JULY, 2022.

O R D E R :

Criminal Application No.52/2022 is allowed. The original complainant is permitted to assist learned A.P.P.

2. Bail Application No.1655/2021 is filed by the applicant Nitishkumar s/o Jitendra Prasadsing for his release in connection with Crime No.14/2020, registered in Cyber Crime Branch at Aurangabad for the offence punishable under Sections 406, 420, 467, 468 read with Section 34 of the Indian Penal Code and Sections 66(C) and 66(D) of the Information Technology Act, 2000.

3. The F.I.R. has been lodged by the victim himself on 19/9/2020. It is his case that, in response to an advertisement in daily "Sakal", he applied for BPCL's Gas Agency. His name figured at Sr.No.2 after his interview for the LPG dealership for Pandharpur (Waluj) Aurangabad area. On 5/5/2020, he received a phone call from Cell Phone No.9123732566. The caller claimed to be one Sandeep Pande. He (caller) told the informant that for LPG dealership he would be required to spend Rs.56,66,000/-. The break-up thereof was as – for licence Rs.35,66,000/- and deposit towards cylinders Rs.21,00,000/-. He was informed that he would be paid Rs.18,00,000/- by the Company towards Godown (storage place for cylinders), Rs.35,000/- per month towards Godown rent and Rs.15,000/- towards salary of employees. The caller insisted the informant to deposit

Rs.56,61,700/-. The informant fell prey thereto. He deposited the said amount in the Bank Accounts. The details of the deposits are as under :

Sr. No.	Name of the Bank and Bank Account No.	Period of transaction (from to)	Total amount transferred (Rs.)
1	Bank of Baroda 05650100015767	6/5/2020 to 20/6/2020	24,37,500/-
2	Punjab National Bank 6677000100090754	12/5/2020 to 31/5/2020	18,65,500/-
3	IndusInd Bank 100076474155	26/6/2020 to 13/7/2020	7,53,000/-
4	Corporation Bank 520101267167288	24/7/2020 to 7/8/2020	6,05,700/-
		Total :- . . .	56,61,700/-

The caller then asked the informant to talk on Whatsapp No.7278383858. The informant suspected something amiss. He, therefore, approached the BPCL's office at Jalgaon and realised no person by name Sandeep Pande has all ever been employed with BPCL. The informant realised to have been duped. He, therefore, lodged the F.I.R.

4. The crime came to be investigated. The applicant herein was arrested. It was transpired that, the applicant was a mastermind. The amount was got deposited in four Bank Accounts at his instance. Other three Bank Accounts were in

the name of some other persons. The amount received was shown to have been paid to some fruit vendors. The applicant then received the very amount in cash from those persons. Involvement of some other associates of the applicant has also been surfaced. According to the prosecution, major amount was received by the applicant herein.

5. Heard. Learned counsel for the applicant would submit that, the investigation of the crime is over. It will take time for commencement and conclusion of the trial. Some of the accused persons are still absconding. The applicant's family members offered to deposit a sum of Rs.20,00,000/- (Rupees twenty lakhs). The learned counsel for the applicant would submit that, the applicant would stay at Aurangabad itself till deposit of the amount of Rs.20,00,000- (Rupees twenty lakhs). The learned counsel would urge for imposition of any conditions for grant of bail.

6. The learned A.P.P. would, on the other hand, submit that, it is a serious economic offence. The applicant has been involved in similar offences committed in 4 – 5 States. The applicant hails from the State of Bihar. If he is released on bail, he may flee away.

7. The learned counsel representing the informant

found to be practical. He came around to concede for grant of bail to the applicant on strict conditions.

8. Considered the submissions advanced. Perused the F.I.R. and related papers of investigation. The involvement of the applicant in the offence in question is evident from the police papers. It is very surprising that the investigating officer did/ could not recover even a single rupee from the applicant herein. It is stated that, the applicant invested the money for purchase of immovable property in the name of his mother. Be that as it may. The applicant came forward to deposit a sum of Rs.20,00,000/-. The learned counsel for the informant conceded to grant the applicant bail. It is informed that, the applicant has been granted bail in other crimes.

9. For the above reasons, I am inclined to grant bail to the applicant. Hence the order :-

O R D E R

(i) The bail application is allowed.

(ii) The applicant shall be released on bail in connection with Crime No.14/2020, registered in Cyber Crime Branch at Aurangabad for the offence punishable under

Sections 406, 420, 467, 468 read with Section 34 of the Indian Penal Code and Sections 66(C) and 66(D) of the Information Technology Act, 2000 on his executing P.R. bond in the sum of Rs.50,000/- (Rupees fifty thousand) with one or two sureties in the like amount.

(iii) The applicant shall deposit with the trial Court a sum of Rs.20,00,000/- (Rupees twenty lakhs). Rs.10,00,000/- (Rupees ten lakhs) thereof shall be deposited within a period of three weeks from today. This deposit of Rs.10,00,000/- (Rupees ten lakhs) is a condition precedent for release of the applicant on bail. The balance amount of Rs.10,00,000/- (Rupees ten lakhs) shall be deposited within a period of eight weeks from the date of this order. In case of failure of the applicant to deposit the balance amount, the order granting him bail to stand automatically cancelled without further reference to this Court.

(iv) Until deposit of the entire amount of Rs.20,00,000/- (Rupees twenty lakhs), the applicant shall stay at Aurangabad itself. The applicant shall submit his address of residence at Aurangabad during the said period to the investigating officer. The applicant shall mark his appearance before the investigating officer once a week i.e. on every Sunday between 12.00 noon and 1.00 p.m. till the deposit of entire amount of Rs.20,00,000/- (Rupees twenty lakhs).

(v) The applicant shall not tamper with the prosecution evidence.

(vi) Once the amount is deposited before the trial Court, the same be paid to the informant on conditions to be imposed by the trial Court.

(R. G. AVACHAT)
JUDGE

fmp/-