IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.411 OF 2022

ANSAR MUNIR SHAIKH
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Rahul R. Karpe
APP for Respondent/State : Mr. V. M. Kagne
...

CORAM : S. G. MEHARE, J.

DATE : 05-07-2022

PER COURT :-

Heard learned Counsel for the applicant and the learned A.P.P. for the State.

2. Learned Counsel for the applicant has vehemently argued that the applicant was not named in the first information report. However, for the first time, in the third remand report dated 22.02.2022, the name of the applicant has been transpired from the accused Nos. 2 and 4. He would further argue that the prosecution has no evidence against the applicant to link the applicant with the alleged incident. The incident, as alleged, happened on 27.05.2019 and the report was lodged on 08.08.2019. Relying on the Judgment in the case of ***Md. Ibrahim & Ors. Versus State of Bihar and Anr., 2009(8) SCC 751***, he has

vehemently argued that considering the nature of allegations and the report lodged by the owner of the land in question, which is allegedly transferred by fraudulent document, the offence under Section 420 of the Indian Penal Code is not made out. Therefore, the complaint falls under the shadow of a doubt. So far as the antecedents to the discredit of the applicant are concerned, he has referred to the order passed in Anticipatory Bail Application No. 338 of 2022, in his case, dated 22.04.2022, and argued that the antecedents might not be a ground to reject anticipatory bail. He submits that the Court has granted the anticipatory bail to the applicant.

3. The learned A.P.P. has pointed out that during the pendency of the application, the charge sheet has been filed against the applicant. The learned Counsel Mr. Karpe, for the applicant, would state that he does not want to withdraw the application and take an opportunity before the Sessions Court to seek the relief of anticipatory bail by referring to the charge sheet against the applicant. In view of the statement made by the learned Counsel Mr. Karpe, it was made clear to him that this Court may not consider the documents placed in the charge sheet as those documents were not before the learned Sessions Judge. So, he fairly conceded that he would not refer to the charge sheet and without referring the charge sheet his application may be heard.

4. Opposing the application strongly, the learned A.P.P. would submit that the applicant is involved in similar offences and Crime Nos. 419/2019, 1121/2019, 106/2019, 1007/2020 and 90/2022 have been registered against the applicant for similar offences. In the investigation, it has been transpired that the unknown lady who was present for the execution of the document is the relative of the applicant. He knows her and her whereabouts. She was with the applicant in every crime registered against him. The applicant is habitual in committing similar offences. It has been transpired that the applicant has prepared a false Aadhar card of the so-called lady who has executed the document fraudulently. Therefore, custodial interrogation of the applicant is necessary.

5. In the case of ***Md. Ibrahim*** (*supra*), the Hon'ble Apex Court, has laid down the law that in a case of selling property of another person claiming himself to be an owner and executing a sale deed, the purchaser cheated may lodge a complaint under Section 420 of the I.P.C. Under these facts, the F.I.R. under Section 420 of I.P.C. was lodged by the owner. In that case, the specific allegations have been levelled in the F.I.R. that a false person executed the sale deed of a field of the complainant, and her signatures were forged. The nature of the offence alleged in the present case did not stop executing the false document, but the serious allegations of making a false document of identification,

i.e. Aadhar card, have also been made. Each case has to be examined from its facts is the rule. The antecedent is a factor to be considered while considering the bail application. Numbers of cases are to discredit of the applicant. The applicant is involved in similar offences of creating false documents. Not only this, but he has also created the false document of identification of a lady who has executed the sale deed claiming to be the owner of the land. The Investigating Officer does not know the lady who executed the sale deed; however, it is transpired in the investigation that the present applicant knows that lady. She must be arrested. The information received about the co-accused may enable the Investigating Officer to make the investigation.

6. After having gone through the facts of the case and antecedents to the discredit of the applicant, this Court is of the view that the applicant is habitual in committing similar offences, and he knows the unknown lady who executed the forged sale deed. Apart from the offence under Sections 420 and 471 of the I.P.C., the offence under Sections 465 and 468 of the I.P.C. have also been levelled against the applicant.

7. Considering the past of committing similar offences, it would not be appropriate to release the applicant on anticipatory bail, though he was not named in the F.I.R. Since the complainant has

claimed that her four signatures have been forged by the same lady, this Court is of the view that the complainant is the person aggrieved, hence, she has right to put the criminal law into motion.

8. In view of the above observations, this Court is not inclined to grant anticipatory bail to the applicant. Hence, the application stands dismissed.

(S. G. MEHARE)
JUDGE

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