

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.570 OF 2022

Dnyaneshwar S/o Narayanrao Jadhav,
Age-39 years, Occu:Agril & Business,
R/o-Warkheda, Tq-Sengaon,
Dist-Hingoli.

...APPLICANT

VERSUS

The State of Maharashtra,
Through Kurunda Police Station,
Dist-Hingoli.

...RESPONDENT

...
Mr.Dhananjay M. Shinde Advocate for Applicant.
Mr.B.V. Virdhe, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 29th JULY 2022

DATE OF PRONOUNCING ORDER : 27th SEPTEMBER 2022

ORDER :

1. Present Application appears to be third bail application of the applicant for getting released under Section 439 of the Code of Criminal Procedure. His first bail application i.e. Bail

Application No.263 of 2021 was rejected by this Court by giving reasoned order on 18th March 2021. Thereafter, applicant filed Bail Application No.674 of 2021 and when disinclination was shown by this Court to grant any relief, learned Advocate for the applicant prayed for withdrawal of the application. Accordingly, that application came to be disposed of as withdrawn on 31st August 2021. Now, this is the third Bail Application. No doubt the difference is that, when his first bail application came to be rejected, the investigation was incomplete and charge-sheet was not filed. The charge-sheet came to be filed on 22nd April 2021 and thereafter his second bail application was filed, which, as aforesaid, came to be withdrawn.

2. Heard Mr. Shinde, learned Advocate for the applicant and Mr. Virdhe, learned APP for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that now since the charge-sheet has been filed, the physical custody of the applicant is not required for the purpose of the investigation. If we consider the charge-sheet, then there is no such evidence against the applicant which would show that he had cheated the informant. As per the First Information Report, the alleged fake currency notes were given by some

unknown person to the informant. Co-accused Kasam Dasttagir Shaikh @ Shaikh Kasam Shaikh Dasttagir has been granted bail by this Court [**Coram: M.G. SEWLIKAR, J.**] on 10th March 2022 in Bail Application No.294 of 2022 and therefore, on the ground of parity also the Application deserves to be allowed.

4. Per contra, the learned APP strongly opposed the Application and submitted that the informant has categorically stated that he was knowing the present applicant who runs Gurumauli Krushi Seva Kendra at Risod and then shifted to Sengaon. He promised that if he invests amount with a person then that person would give double the amount than invested. Informant believed in the representation made by the applicant. It was decided that the informant would invest the said amount by handing it over to the present applicant. Informant has actually handed over Rs.2,00,000/- to the present applicant and it was decided that rest of the amount of Rs.3,00,000/- would be given by him at Aurangabad. Thereafter, there was talk between the informant and the applicant on 29th January 2021. The applicant was along with three unknown persons who had come in a Bolero vehicle. Informant and his brother were made to sit in that vehicle. Present applicant took them to Jatwada Road at about 08.00 p.m. At that time after asking the informant as to

whether he want double the amount then asked him to give the amount of Rs.3,00,000/-. Then there was assault on the informant. They had tried to snatch the bag containing money from the hands of informant and his brother, but it was resisted. Applicant and others gave threat to kill to the informant and his brother and fled away from that spot. This entire story would make it very much clear that the present applicant had tried to take disadvantage of the facts and further when he was arrested and his house was searched, he was found having possession of 59 counterfeit currency notes of Rs.500/- denomination each and 06 counterfeit currency notes of Rs.100/- denomination each. The evidence which has been collected and forming part of the charge-sheet would show that fake currency notes were recovered and the prima facie involvement of the applicant can be seen from the statements of the witnesses. Release of co-accused Kasam on bail will not give any advantage to the applicant, as it has been observed in the said order that, there is no cogent evidence to show even at this prima facie stage that Kasam, the applicant therein, was one of those who had accompanied accused Dnyaneshwar. It is further observed that, " FIR shows that in the beginning only accused Dnyaneshwar had approached the informant and amount of Rs.1 lakhs was paid by the

informant to accused Dnyaneshwar only ". Therefore, when it is a question of counterfeit currency, then it would be equivalent to waging of war against the Country and therefore, no leniency deserves to be shown to the applicant.

5. Since the contents of the First Information Report are already reproduced, the same are not taken once again. Suffice it to say that the informant was knowing the present applicant and on his representation, he states that he had plan to invest his amount or hand it over to the present applicant to get the double amount. Informant specifically states that he had given a call to the present applicant on 29th January 2021 and then he had started his journey to meet the present applicant along with brother Sopan. That means, present applicant had the idea that informant would be having the said amount with him. The informant has stated specifically about the role played by the present applicant. Further, the statements of the other witnesses, in fact which were also earlier considered by this Court though at that time charge-sheet was not produced, would show the specific involvement of the present applicant. Present applicant cannot take advantage of release of co-accused Kasam for the reason that while releasing that co-accused the observations have been made as to how the role of that co-

accused is different from the present applicant Dnyaneshwar. Definitely, when the question of fake / counterfeit currency notes is there as well as the fact that such counterfeit notes have been seized from the house search of the applicant, then in such similar cases, it has been observed by the Hon'ble Supreme Court that it amounts to waging of war against the Country and such applicants need not be shown any sympathy.

6. No case is made out now also to release the applicant on bail under Section 439 of the Code of Criminal Procedure after the charge-sheet. The Application stands rejected.

[SMT. VIBHA KANKANWADI , J.]