

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1491 OF 2021

1. Dharmapal @ Sonu s/o Chhotelal Naik
 2. Sabsing s/o Nisa Naik
- Applicants
- Versus

The State of Maharashtra

Respondent

Mr. N.G. Kale, Advocate for the applicants.
Mr. V.S. Badakh, APP for respondent/State.

CORAM : M.G. Sewlikar, J.

DATE : 6th JANUARY, 2022.

PER COURT :

1. Heard.

2. It is the case of the prosecution that informant is running a jewellery shop. Applicants had approached him and he lent them amount against gold twice. That amount was returned by the applicants. In this manner, the applicants won the trust of the informant. On 15th October, 2021, at 11.00 am, applicants approached the informant and demanded Rs. 1,00,000/- against gold. Informant paid them the said amount. When the informant

tested the gold, he found it to be spurious. Informant demanded the amount back to the applicants but they refused and therefore, informant has lodged the First Information Report on the basis of which, offence under Sections 406, 420 read with Section 34 of the Indian Penal Code came to be registered.

3. Shri Kale, learned counsel for the applicants submits that the applicants had pledged real gold. Informant wants to grab the gold and, therefore, he has filed this false First Information Report. He submits that he is ready to deposit amount of Rs.1,00,000/-. He further submits that at the most offence under Section 420 of the Indian Penal Code could be made out as there is no entrustment.

4. Learned APP Shri Badakh and learned counsel for the applicant Shri Reddy submit that actually the amount lent was Rs.7,00,000/-. However, while lodging First Information Report, the word 'seven' was not typed. Handwritten complaint shows that amount of Rs. 7,00,000/- was paid by the informant to the applicants. They submit that the applicants won the trust of the informant and cheated the informant for Rs. 7,00,000/-. They

submit that there is prima facie case against the applicants and therefore, they should not be released on bail.

5. On perusal of First Information Report and charge-sheet, it is seen that amount of Rs. 1,00,000/- is mentioned in the First Information Report. In the online First Information Report also, amount of Rs. Lac was mentioned. During trial only, it will be clear whether amount of Rs. 7,00,000/- was paid or amount of Rs.1,00,000/- was paid. At this stage, the amount mentioned in the First Information Report will have to be accepted.

6. Offence under Section 420 of the Indian Penal Code is punishable with imprisonment for seven years. Charge-sheet is filed. Presently, applicants are residing at Latur though they are from Rajasthan. Learned counsel Shri Kale submits that any condition can be imposed for releasing the applicants on bail. In view of this, following order is passed :

ORDER

- i) Application is allowed.
- ii) Applicant No. 1 Dharmapal @ Sonu s/o Chhotelal Naik and applicant No. 2 Sabsing s/o

Nisa Naik be released on PR Bond of Rs.35,000/- each (Rs. Thirty Five Thousand) with one solvent surety in the like amount in connection with Crime No. 0559/2021 registered with Gandhi Chowk Police Station, District Latur for the offences punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code, on condition that they deposit amount of Rs. 1,00,000/- before the concerned Chief Judicial Magistrate.

iii) Applicants shall not leave the jurisdiction of the Court without prior permission of the concerned Court.

iv) Each of the applicants shall deposit their passport, if any, with the concerned police station.

v) Each of the applicants shall give their mobile numbers to the concerned police station. In case of change in mobile number, the same shall also be furnished to the concerned police station.

vi) The applicants shall not tamper the evidence and shall not pressurise the witnesses.

vii) Application stands disposed of.

viii) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3144 OF 2021 IN
BAIL APPLICATION NO.1491 OF 2021

Shrikrushna Sopan Kolpuke

Applicant

Versus

The State of Maharashtra & others

Respondents

Mr. Ajinkya Reddy, Advocate for the applicant.

Mr. V.S. Badakh, APP for respondent/State.

Mr. N.G. Kale, Advocate for respondents No. 2 and 3.

CORAM : M.G. Sewlikar, J.

DATE : 6th JANUARY, 2022.

PER COURT :

Application is allowed.

(M. G. SEWLIKAR)
Judge

dyb