

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.206 OF 2021

Vijay Bandu Kondake] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

ALONG WITH
BAIL APPLICATION NO.1365 OF 2021

Sagar Mohan Shinde] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

...
Mr. Aditya Mokashi for the applicant in Bail Application No.206
of 2021.

Mr. Vikas Kolekar for the applicant in Bail Application No.1365
of 2021.

Mr. S.H. Yadav, A.P.P. for the State.

Mr. Yunus Shaikh, PI is present in the court.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 21ST JUNE, 2022.

P.C.:-

1. Bail Application No.206 of 2021 was directed to be tagged along with the bail application of the co-accused (Bail Application No.1365 of 2021). Since the Bail Application No.1365 of 2021 is not listed on the board, the record of the said application is called during the course of hearing and taken on board.
2. The two applicants are accused of committing offences punishable under Sections 408, 409, 420, 120-B and Section 34 of the IPC in C.R. No.249 of 2019 registered with Pydhonie Police Station, Mumbai. They came to be charge-sheeted for the said offence along with seven other accused persons.
3. As far as Vijay Kondake is concerned, he came to be arrested on 12/11/2019 whereas Sagar Shinde came to be arrested on 11/11/2019 and since then, they are incarcerated, awaiting their trial.
4. The charge-sheet alleged that on a complaint filed by the auditor of the Maharashtra State Co-operative Marketing Federation Limited, which was implementing a scheme

popularly known as “NEML”, (NCDEX e-Markets Limited), which was floated for offering assistance to the farmers in the form of distributing financial help received from the State and Central Governments with an intention that they are not constrained to sell their products in distress sale. The scheme contemplates the distribution of amounts to the farmers via NEML, which was responsible for online registration and displaying the information on their portal and offer assistance to the farmers.

5. The complainant, the auditor of the Maharashtra State Cooperative Marketing Federation Limited, alleges that accused No.1 – Saurabh Horambe, who was working with NEML and managing the portal used a secret ID and password and disbursed various amounts to different accounts held by his acquaintance. Thus, the money which was meant for the farmers was looted by accused No.1 through various accounts and the applicants before me, are two such persons. In the year 2017, a sum of Rs.92 lakhs is alleged to be siphoned off.

6. On the arrest of accused No.1, the other accused came to be traced and applicant Sagar Shinde is arraigned as accused No.2 whereas, Vijay Kondake is arraigned as Accused No.4. The charge-sheet alleges that Vijay Kondake received a sum of Rs.2,31,052/- in his account whereas, Sagar Shinde received two sums in his two distinct accounts viz. Rs.25,25,012/- and

Rs.5,97,780/-.

7. Learned counsel for Vijay Kondake would submit that the amount received by him came through one Ashish Umte, accused No.3, and out of the amount received by him, he had transferred back some amount in the account of accused No.1. Similarly, learned counsel appearing for Sagar Shinde would submit that barring approximately Rs.3 lakhs, the remaining amount was transferred to accused No.1.

8. On perusal of the charge-sheet it can be seen that accused No.1 is the kingpin of the entire episode, when he manipulated the farmers portal and effected various amounts into the account of the accused persons, but the said accused have transmitted back the amount to him. It is not the case of the prosecution that the applicants played any active role in manipulating the account, but the limited role attributed to them is that they received an amount from accused No.1 and the charge-sheet alleges that this accounts were managed by accused No.1 by transferring the amount while maintaining the portal.

9. Learned counsel for the applicant relies upon an order passed in the case of co-accused Ishwar Dhamale (accused No.5) at the hands of this court by recording that the applicant is a beneficiary of an amount, but there cannot be any justification of his participation in the offence and his custody during the trial is

unnecessary since he has played a minimal role of a larger conspiracy and observing that there is no antecedents against him, he came to be released on bail.

10. It is also stated that apart from this accused, accused Nos.3, 6, 7 and 8 are also released on bail.

11. Considering the limited role attributed to the applicants in the charge-sheet, and on recording the statement of learned A.P.P. that the applicants have no criminal antecedents, the applicants are released on bail. Hence, the following order.

ORDER

- (a) The applicants – **Vijay Bandu Kondake** and **Sagar Mohan Shinde** shall be released on bail in C.R. No.249 of 2019 registered with Pydhonie Police Station, District **Mumbai** on executing P.R. bond to the extent of Rs.50,000/- each and furnishing one or two sureties of the like amount.
- (b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

- (c) The applicants shall mark their attendance in the court of Metropolitan Magistrate, Sewree, who is seized of the trial, once in every three months, and attend the trial on regular basis once it commences.

12. The Applications are allowed in the aforestated terms.

13. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]