

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2029 OF 2022

Sanjay Parashram Nanvare, Age 38 years,
Occ.Hotel Business, R/o.Dattawadkar Lane,
Rajarampuri, 14th Lane, Kolhapur.

Petitioner

versus

The State of Maharashtra

Respondent

Mr.Anand S. Patil, Advocate for Petitioner.

Mr.A.R.Patil, APP for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd July 2022

PC :

1. Petitioner has invoked Article 227 of Constitution of India challenging the order dated 13th January 2022 passed by learned Additional Sessions Judge, Kolhapur and order dated 5th October 2021 passed by learned Chief Judicial Magistrate, Kolhapur in Regular Criminal Case No.972 of 2021.

2. Petitioner was arraigned as an accused in Crime No.13 of 2021 investigated by Cyber Police. Petitioner is holding savings bank account with Axis Bank Limited, Branch Kamala College, Rajarampuri, Kolhapur. During the course of investigation police had freezed said account on the ground that account was used for the purpose of commission of crime and proceeds of crime are lying in the said account.

3. Petitioner preferred an application before the Court of learned Chief Judicial Magistrate, Kolhapur for de-freezing the bank account.

The said application was rejected by order dated 5th October 2021.

4. Petitioner preferred Criminal Revision Application No.105 of 2021 before District and Sessions Court, Kolhapur. The revision application was rejected by order dated 13th January 2022.

5. The contention of Petitioner is that he is not concerned with the transaction in question. He has independent hotel business. The license of hotel is in the name of his wife. Petitioner is not involved in the offence. The amount deposited in the account is not concerned with crime. Petitioner is not concerned with gambling business. Petitioner had pledged his gold ornaments with bank and taken loan of Rs.13 lakh. The said amount was transferred to the savings bank account. It was frozen by police on 28th August 2020. About Rs.7 lakh were lying in the said account. The FIR does not indicate any connection of the petitioner with the alleged Super Seven Club. Petitioner was implicated on the basis of co-accused.

6. Learned APP submitted that both the Courts have considered the grounds urged by Petitioner and his applications were rejected.

7. The bank account of Petitioner was frozen during investigation of C.R No.13 of 2021. Except inferences there is no material on record to indicate that subject bank account was utilized by Petitioner for transferring the amount involved in the crime to the said account. To invoke Section 102 of Cr.PC, there has to be connection between crime and amount lying in the bank account. From the documents relied upon by the petitioner it appears that petitioner had borrowed the said amount from bank by pledging

ornaments. In the absence of any evidence on record, to show that amount lying in the bank account has any connection with the crime, police cannot freeze said account. Investigation has proceeded and no evidence could be collected to substantiate the act of freezing of account. Hence, the impugned orders are required to be set aside.

ORDER

- (i) Criminal Writ Petition No.2029 of 2022 is allowed and disposed off;
- (ii) Order dated 5th October 2021 passed by Chief Judicial Magistrate, Kolhapur in R.C.C No.972 of 2021 below Exhibit-27, and order dated 13th January 2022 passed by Additional Sessions Judge, Kolhapur in Criminal Revision Application No.105 of 2021, are quashed and set aside;
- (iii) The bank account of Petitioner bearing No.918010093706107 maintained with Axis Bank Limited, Branch Kamala College, Rajarampuri, Kolhapur, be de-frozen and Petitioner be allowed to operate the said account by executing appropriate bond before Trial Court.

(PRAKASH D. NAIK, J.)

MST