rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2608 OF 2021

Virendra Pratap Sitaram Mishra	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Mahesh Tiwari a/w Bipin Chandra for the Applicant.
Smt.A.A. Takalkar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 23rd AUGUST, 2022.

P.C.

1] The Applicant who has been charged for the offences under Section 420, 465, 467, 468 read with 34 of the Indian Penal Code and who was arrested on 17.02.2021, seek his release on bail on the ground that investigation is completed and incarceration is not necessary.

2] With the assistance of the learned APP and learned counsel for the Applicant, I have perused the charge-sheet which include the FIR filed by one Santoshkumar Nigam, who claims to be owner of UTS Roadlines and UTS Express Cargo Pvt. Ltd. He was approached by accused No.1 for services of transport by representing himself to be logistic head of Hindalco Industries Ltd, for transporting his goods from Singrouli (MP) to Piniya (Banglore) and Mumbai JNPT and he agreed to pay expenses for transportation within a period of one week.

Acting upon his representation, the complainant approached Rajesh Agrawal, owner of Agrawal Contractor & Suppliers, to provide his goods carrier from Singrouli to Banglore for transportation of goods. As per the complaint, as per the instructions of Accused Nos.1 and 2 he deposited an amount in the account of Applicant at Bharuch, which reveal that the accused have cheated him and induced him to deposit an amount of Rs.24,59,000/-, when in fact no goods were transported.

3] As far as role assigned to the present Applicant is concerned, it is alleged that the entire sum of Rs.24,59,000/- is received in his account, but submission of the learned counsel for the Applicant is, he transferred entire amount to accused Nos.1 and 2 by bank transaction and some amount by Angadia.

4] The learned APP would submit that the Applicant withdrew some amount and has appropriated an amount of Rs.4,80,000/- to his benefit and the amount of Rs.1,50,000/- was transferred in the account of daughter.

In response, the learned counsel for the Applicant has placed on record the bank statement, which reflect that the amount which was deposited by the Applicant in his daughter's Account was withdrawn by him on the very next day and his case is, that the amount was transferred via Angadia to the other accused persons.

5] In any case the investigation being completed and since the charge has not been crystalized against the accused persons, his further incarceration is unwarranted and particularly it is not the case of prosecution that he will not be available to face trial or he has any antecedents. In the nature of accusations levelled against the Applicant in the charge-sheet, he deserve to be released on bail also on the ground that he is suffering from Tuberculosis and he was offered treatment while in custody.

6] The observations made above are prima facie in nature and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which he is charged, shall not in any manner be influenced by the above order.

Hence, the following order :

O R D E R

(a) Application is allowed.

(b) Applicant – Virendra Pratap Sitaram Mishra shall be released on bail in connection with C.R.No.254 of 2019 registered at Bhandup Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

The Applicant shall be released on cash bail of Rs.25,000/- for a period of four weeks in lieu of sureties. During the said period the applicant shall arrange for the sureties.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(d) The applicant shall report to the concerned Police Station once in a week for a period of three months between 10.00 a.m. to 12.00 noon.

(e) On his release, the Applicant shall submit details about his contact number and residential address to the Investigating Officer.

(f) The Applicant shall regularly attend trial, on every date, unless exempted.

[BHARATI DANGRE, J]