IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRI. APPLICATION (ABA) NO.16 OF 2022
(RAJU GADIRAMJI CHAKOLE....VS.. STATE OF MAH. THR. PSO PS PARSHEONI, DIST. NAGPUR)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri V.R.Baseshankar, Advocate for Applicant.
Shri S.D.Sirpurkar, A.P.P. for Non-applicant No.1/State.

CORAM : SURENDRA P. TAVADE, J.
DATED : JANUARY 17, 2022.

Heard.

2. This is an application for pre-arrest bail in Crime No.37 of 2021, registered with Parsheoni Police Station for the offences punishable under Sections 420, 409, 468, 471 read with Section 34 of the Indian Penal Code.

3. One Shivram Madankar had filed private complaint bearing No.123 of 2019 before Judicial Magistrate First Class, Parsheoni which was sent under Section 156 of the Cr.P.C. for investigation against the applicant and six co-accused.

4. It is alleged against the applicant and co-accused that they have asked the original complainant Shivram Madankar to open an account in Corporation Bank, Ramtek and obtained blank signed cheques and passbook from Shivram Madankar. It is contended that

on 05/07/2019 the applicant went along with Shivram Madankar to Union Bank of India, Ramtek Branch and withdrew an amount of Rs.1,00,000/- and defrauded him.

5. It is alleged in the F.I.R. that the original complainant was having agricultural land bearing Survey No.196/3, admeasuring 0.96 HR. The present applicant contacted Deelip Mankar, who showed willingness to purchase the land of the complainant Shivram Madankar. Accordingly, the deal was finalized for purchase of the agricultural land of Shivram Madankar for a consideration of Rs.19,50,000/-. Accordingly, Deelip Mankar paid earnest amount of Rs.20,000/- to the complainant and from time to time he was paying consideration amount to the complainant. It is alleged that Deelip Mankar transferred Rs.14,50,000/- in the account of Shivram Madankar through RTGS and thereafter also paid Rs.2,00,000/- by issuing cheque and remaining amount was paid in cash at the time of registration of the Sale Deed.

6. It is contended that the applicant is noway concerned with the said transaction. He was only a Mediator and it is also contended that the original complainant was not having PAN Card, therefore, he accompanied him to the Bank to facilitate him to withdraw the amount. It is also contended that the applicant paid Rs.95,000/- to the original complainant in the Bank itself. It is contended that the applicant is noway

concerned in connection with the alleged act of cheating and fraud.

7. It is contended that the applicant has visited the Police Station twice and cooperated in the investigation. He is permanent resident of village Khokurla, District : Bhandara. There is no possibility of his absconding. It is contended that he has not received any amount from the original complainant. Therefore, the allegations made against him are false and custodial interrogation of the applicant is not required and therefore, he prayed for grant of bail.

8. The notice of this application has been issued to the non-applicant. The learned A.P.P. appeared and filed reply on behalf of the Non-applicant/State.

9. It is contended that the applicant persuaded the original complainant to sell his agricultural land, accordingly the transaction was occurred and a huge amount of Rs.19,50,000/- was involved in the said transaction. It appears that the amount was deposited in the account of original complainant by the purchaser. But the said amount was withdrawn by the applicant and co-accused with the help of pre-signed cheques obtained by them when the account of the complainant was opened in the Bank. It is contended that the original complainant has lost possession of the land as well as the amount was also withdrawn from the Bank by the applicant and the co-

accused. Therefore, there are specific allegation against the applicant that he was hand in glove with the co-accused to cheat the original complainant. The amount is to be recovered at the instance of the applicant and the co-accused, therefore, it is prayed that the application be rejected.

10. It appears that the original complainant had agreed to sell his agricultural land to Deepak Mankar for Rs.19,50,000/-. It appears that out of the total sale consideration, an amount of Rs.16,50,000/- was deposited in the account of the complainant by the purchaser.

11. It is alleged against the applicant that on 05/07/2019 the applicant accompanied the original complainant to the Bank. The original complainant issued cheque in the name of the applicant and accordingly an amount of Rs.1,00,000/- was withdrawn by the applicant. An entry to that effect is on record. According to the applicant, he had simply accompanied the complainant to the Bank to facilitate him to withdraw the amount. But, it appears that the cheque was issued in the name of the applicant and the amount was withdrawn by the applicant from the Bank. No doubt, it is the case of the applicant that he paid the said amount to the complainant in the Bank itself, but the complainant has specifically denied the said fact. It is the case of the complainant that at the time of opening the account the applicant and co-accused had

obtained blank signed cheques from him, which were subsequently misused.

12. In view of the said fact, it is required to verify as to whether the amounts were withdrawn from the Bank by the applicant or other co-accused. The complainant has already parted with the land by way of Sale Deed. The bank account of the complainant would show that whether any amount is withdrawn by the co-accused or the applicant. It is specific allegation of the applicant that he has withdrawn an amount of Rs.1,00,000/- on 05/07/2019.

13. In view of the said facts and the counter allegation, the Investigation Officer has to carryout investigation whether the applicant had withdrawn the amount and used it for his own purpose. Though the offence is based on documents, but the custodial interrogation of the applicant is required to verify whether he had taken active part in the crime by withdrawing the amount, therefore, custodial interrogation of the applicant is required.

Hence, the application is **rejected**.

(SURENDRA P. TAVADE, J)

RR Jaiswal