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

CRIMINAL APPLICATION (BA) NO. 403/2022
Shaikh Washim Shaikh Salim..Versus...State of Maharashtra

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

Mr. F.T.Mirza, Advocate for applicant.
Mr. I.J.Damle, APP for Non-applicant/State

CORAM : AVINASH G. GHAROTE, J.
DATE : 05/05/2022

1] Heard Mr. Mirza, learned counsel for the applicant and Mr. Damle, learned APP for non-applicant/State.

2] The applicant is arraigned for the offence u/s 489-B and 489-C of the IPC in Crime No. 90/2022.

3] Mr. Mirza, learned counsel for the applicant submits that the applicant is a businessman by profession and is doing the business under the name and style of Bohra Industrial Oil, Wadner Bho, Tq. Nandura, which has an account in the HDFC Bank, Malkapur. It is contended that the firm of the applicant purchases oil from Pitambar Creations, HS Trading Co., Gujarat Trading Co., and sells the same on retail to purchasers. It is further contended that the money which is received in cash is deposited with the HDFC bank where the account of the firm is maintained. He therefore submits that the very fact that the sale proceeds were deposited in the HDFC bank by the applicant through his employee Irfan Patni, would indicate that there is no question of involvement of the applicant in the aforesaid crime and therefore, the applicant is entitled to bail.

4] Learned App opposes the application and contends that the applicant is involved in selling and buying of counterfeit currency notes, which is the reason why 38 notes out of the entire currency notes totalling to Rs. 8,37,000/- were found to be counterfeit by the bank employee. It is also submitted that there are no proper documents indicating the registration of the Firm of the applicant under the relevant provisions, nor GST has been paid since last one year and the firm is merely registered under the Shops and Establishment Act. No proper account are being maintained to indicate the transactions, which all add and indicate that the applicant is involved in the aforesaid crime and the application therefore needs to be rejected.

5] A perusal of the case diary, which has been produced for my inspection by the learned APP indicates that the only allegations against the applicant is improper maintenance of record and the absence of any license, as it is claimed that the applicant deals in bio-diesel and therefore, in light of the G.R. dated 11.5.2021, it was required to obtain licenses, which are absent. The argument does not impress me for the reason that though the applicant may have been carrying a business of sale of oils or bio-diesel without a license, or is not keeping proper accounts, that does not by itself indicate any involvement of the applicant for the offence under Section 489-B and 489-C of the IPC.

6] It is not in dispute that on 21.2.2022, the employee of the applicant namely Irfan Patni had been to the HDFC Bank for depositing cash of Rs. 8,37,000/- and when the Teller with the Bank counted those notes, it was found that 38 notes of the denomination of Rs. 500/- each amounting to Rs. 19,000/- were counterfeit. A complaint was thereafter lodged with the police authorities on 23.2.2022, on which the counterfeit notes have been seized. The mere depositing of the amount of Rs. 8,37,000/- by the employee of the applicant with the HDFC Bank and out of this amount, 38 notes being found to be counterfeit would prima facie not be an indicator that the applicant is dealing in counterfeit currency. The entire case diary except for the above two allegations, does not disclose anything as of now as against the present applicant, to indicate that the ingredients of Section 489-B or 489-C have been made out, considering which since the investigation is going on, the applicant can be released on bail, subject to stringent conditions. Hence following order.

O R D E R

1] The application is allowed.

2] The applicant Shaikh Washim Shaikh Salim be released on bail in Crime No. 90/2022 registered by the Malkapur City Police Station for the offence under Section 489-B and 489-C of the IPC, on his executing PR bond in the sum of Rs.1,00,000/- with two solvent surety of like amount.

3] The applicant shall not tamper the prosecution evidence, nor shall undue influence the prosecution witnesses in any manner.

4] The applicant shall attend the Police Station Malkapur City on every Monday and Thursday between 1.00 p.m. to 5.00 p.m. and shall render all cooperation to the prosecution, by producing all necessary documents as may be demanded, of which the applicant is in possession and in case the documents which are not in his possession, is able to procure its possession, till the filing of the charge-sheet, of which demand shall made in writing.

5] In case, during the course of investigation, the prosecution comes any material implicating the applicant, the prosecution shall be at liberty to apply for cancellation of bail.

6] After the charge-sheet is filed, the applicant shall attend the learned Sessions Court on each and every date and shall ensure that the trial is not protracted on his count.

7] Any violation of the above conditions shall result in cancellation of bail.

JUDGE

Rvjalit