

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**BAIL APPLICATION NO.513 OF 2023
WITH APPLN/1309/2023**

SOEB MOHAMMAD S/O. RAFIQ KERUWALA
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shaikh Nasimoddin Rafiyoddin
APP for Respondent/State : Mr. K.S. Patil
Advocate for Complainant : Mr. Dhananjay S. Patil
...

CORAM : S.G. MEHARE, J.

DATED : MARCH 31, 2023

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. The complainant has a case that the applicant, introducing himself by the name Akash done the trading with the intention to cheat him since inception. He has received delivery of the wheat flour and made the part payment. However, tactfully, he received the wheat flour from him and impressed upon him that he would pay the money. However, he avoided paying money; hence, the complainant got suspicious. Then he made an enquiry and learnt that the real name of the applicant was Soeb Mohammad Rafik Keruwal. With the intention to cheat, he introduced himself as Akash and duped him for Rs.8 lac and more. It is also alleged against the applicant that he has received the flour and disposed of it without

paying money to the complainant. On the basis of an order under Section 156(3) of Cr.P.C., the crime has been registered. Police arrested the applicant. He is behind the bar.

3. Learned counsel for the applicant would submit that the story of impersonation has been developed now. The applicant had no concerns with the alleged transaction. If the contents of the complaint are admitted without admitting the involvement of the applicant, there are no ingredients that constitute an offence under Section 420 of the Indian Penal Code. The applicant, in fact, has no concern with the alleged transaction. Nothing is recovered from him during his police custody. To bolster his arguments, he relied on the case of Vivek Vishwanath Kenge Vs. Vishwam Power and Buildcon Pvt. Ltd., AIR Online 2020 Bom 39, and referred to the observations of this Court as regards the facts created the complaint constituting an offence under Section 420 of the Indian Penal Code. A perusal of the facts of the said case, there were no allegations of impersonation. The Court held that it was a civil dispute, and the application for cancellation of bail was allowed. He further added that there is not a single crime to his discredit. Therefore, his further detention would be against the law. He may be released on bail.

4. Per contra, learned counsel for the complainant, by filing an application opposing the bail application and written submissions, would argue that the applicant has been impersonated. It has

transpired in the investigation made by the complainant that he was doing the business under a fake name. When the complainant went to the warehouse where the delivery of wheat flour was given, nothing was found there, and the applicant had no concern with the said warehouse. Reading the complaint, he has pointed out that there are specific averments of impersonation. He would also argue that since inception, the applicant had the intention to cheat the complainant. Though it was coloured as a civil dispute, actually, the applicant has the intention to cheat the complainant. The investigation is going on. The applicant has a habit of introducing himself under different names. He is a resident of the State of Gujarat. The investigation is in progress. Hence, he may not be granted bail.

5. To support the contention of the complainant, the learned APP would argue that there are many such cases discovered against the applicant that he impersonated many persons under different names. He placed on record the case diary to support his contention. He would also argue that with great difficulty, the police could arrest him from the State of Gujarat. Considering his conduct and intellect to commit the offence systematically, it would be harmful to release him on bail. That apart, the investigation is in progress. Sufficient incriminating material has been collected and is more likely to be collected against him. Hence, he does not deserve bail.

6. Perused the case diary. There is a substance in the argument of the learned APP that the applicant did a similar act by introducing himself under different names. The specific averments were there in the complaint that the applicant did the business under a false name by hiding his real identity. So far as the case law referred by the applicant, it is distinguishable on facts. Considering the papers produced by the learned APP, the Court is of the view that a thorough investigation is required to be done. Considering his conduct and practice of the applicant doing business under fake names, the possibility of tampering with the prosecution witnesses, if released on bail, cannot be denied. The offence is apparently serious. The investigation officer has collected and is collecting incriminating material against the applicant. For that purpose, the detention of the applicant is essential.

7. For the above reasons, the application stands dismissed.

8. Criminal Application No.1309 of 2023 stands disposed of.

(S.G. MEHARE, J.)