IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 **BAIL APPLICATION NO.1291 OF 2023**

KULDEEP PRALHAD WANKHEDE
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. M.D. Narwadkar
APP for Respondent : Mrs. P.V. Diggikar
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CORAM : S. G. CHAPALGAONKAR, J.
Dated: September 14, 2023
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PER COURT :-

1. The applicant seeks regular bail in connection with Crime No.128 of 2023 registered with Vazirabad police station, District Nanded for the offences punishable under sections 420, 465, 467, 468, 471, and 120-B of the Indian Penal Code.

2. The investigation was set in motion on the basis of the information given by one Somnath Patre. It is alleged that a fake bank account has been opened in his name with Shri Renukamata Multi-state Urban Credit Co-operative Society Limited. The said account has been illegally used during the period from 13.5.2014 till 20.3.2023 for transactions worth Rs.4,46,19,541/-. The informant states that he received a notice dated 26.3.2023 from income tax department under section 148-A(b) of Income Tax Act, 1961 regarding non-disclosure of transaction worth Rs.78,16,490/- in his account at Renukamata Multi-state Urban Credit Cooperative Society Limited. On inquiry with the Society, he came to know that his

Aadhar Card, Election Card have been mis-utilized for opening account in his name. Mobile number of his friend Kuldip Pralhad Wankhede (Present applicant) has been assigned to said account. On further inquiry, he came to know that the account opening form is signed by Branch Head Jitendra Thete and another employee Govardhan Mahajan. One Vilas Waghmare is shown as referrer. The informant states that photograph and KYC documents attached to the account are misused. The signature and thumb mark is put by someone else. It is, therefore, alleged that the applicant in connivance with the other employees of the society have been opened bogus account in his name and used for huge transactions. In view of the aforesaid information, crime no.128 of 2023 came to be registered against the accused persons for the aforesaid offences. The applicant has been arrested on 20.4.2023. Since then he is behind bar.

3. Mr. Narwadkar, learned advocate appearing for the applicant would submit that the applicant is working as a courier boy. False allegations are made against him. He has been roped in the crime only on the basis of suspicion. Although, his mobile number is linked with the account, he has never received any message. There is nothing to indicate that the applicant has ever operated the account or made any transaction. He would submit that the investigation in the matter is complete. Charge-sheet is filed on 15.6.2023. No evidence could be collected against the applicant regarding his involvement in the offence. Further detention of the applicant

would be unnecessary. The communications issued by the General Manger of Society with the Investigating Officer would show that the account has been opened at the instance of the informant himself. The address provided in the account is the same as stated in the notice issued by the Income Tax Department. Only after receipt of notice from the income tax department, a fake story is created by the informant thereby making accusations against the applicant to safeguard himself. The applicant has not gained any monetary benefit. The signatures on the account opening form would show that applicant is unconcern with subject bank account. Hence, he urged to release the applicant on bail.

4. Per contra, learned A.P.P. strongly opposes the application. She submits that during investigation, it is transpired that transaction worth Rs.8,92,39,420/- have been carried through the account in question. The KYC documents of the informant are misused for generating the account. The offence is serious. Therefore, prays for rejection of the application.

5. Having considered the aforesaid submissions, it is evident that except the allegations in the FIR that the applicant has stolen the KYC documents of the informant and misused in opening the account, there is nothing on record by which the applicant can be linked with the commission of offence. One more circumstance that is relied by the prosecution is that mobile number of the applicant is linked with the account. However, there is absolutely no evidence on record to show

that any SMS was sent on the said mobile number from the Bank or said mobile number was used in the communication made by the Credit Society in respect of operation of the account. Pertinently, although charge-sheet is filed and specimen signatures and the thumb impression of the informant as well as the applicant have been obtained and sent for expert's opinion, till date of hearing of this application, there was no progress. Therefore, investigating officer was called upon to explain the aforesaid delay in bringing the report. It was informed that specimen signatures made by the accused persons in natural course could not be obtained. The matter was adjourned for aforesaid reason. Thereafter, it is informed that now such signatures are being procured and sent to the handwriting expert. The aforesaid conduct on the part of the prosecution would show that investigation is not carried out in proper way although offences are serious in nature.

6. There is reason to prima facie accept the contention of the applicant that only because mobile number of the applicant is linked with the account he is made accused in this crime. The applicant is behind bar since 20.4.2023. Charge-sheet is filed. In absence of clinching material against the applicant showing his involvement in crime, it would not be proper to continue his detention any more. However, to secure the interest of the prosecution, the applicant can be put to stringent conditions. The observations made herein-above are prima facie in nature and based on consideration of material made available to this Court and are made only for

disposal of this application. The case is made out for grant of bail. Hence, the order.

O R D E R

I. Criminal Bail Application is hereby allowed.

II. The applicant-KULDEEP PRALHAD WANKHEDE be released on bail in connection with Crime No.128 of 2023 registered with Vazirabad police station, District Nanded for the offences punishable under sections 420, 465, 467, 468, 471, and 120-B of the Indian Penal Code on his furnishing P.B. & S.B. of Rs.50,000/- (Rs.Fifty Thousand) on the following conditions :-

a] The applicant shall not tamper the prosecution evidence.

b] The applicant shall not leave the State of Maharashtra without pre-intimation to the concerned police station.

c] The applicant shall attend each and every effective date before the trial court.

d] The applicant shall co-operate in case of further investigation in terms of section 173 (8) of Criminal Procedure Code.

e] The applicant shall visit the concerned police station once in a month i.e. on 5th day of every month and update his residential address, mobile number and contact number.

III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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