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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2984 OF 2023

Sagir Ajar Khan] .. Applicant
vs.
State of Maharashtra] .. Respondent

Mr.Waqar Pathan a/w Steven Anthony for the Applicant.

Ms.M.R. Tidke, APP for the State.

PSI Narayan Dalvi, Vileparle Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 1st November, 2023.

P.C.

1] This is second Bail Application filed by the Applicant, who is facing charge in Sessions Case No.535/2021 for committing the offence punishable under Section 395, 120, 419, 120-B read with 34 of the Indian Penal Code. The present Applicant is charge-sheeted as Accused No.7, on being arrested on 20.02.2021.

In the earlier round the Applicant alongwith accused Nilesh Bhingardive moved distinct Bail Applications, which were heard by me on 12.10.2022 and recording the case of the prosecution which has

surfaced through the charge sheet, I recorded a prima facie finding about his involvement alongwith that of the co-accused Nilesh Bhingardive.

In Para 3, I have specifically referred to the star witness of the prosecution, Vikas Sethi, who had identified photographs of the arrested persons and amongst them was the Applicant and co-accused Nilesh Bhingardive, who had impersonated themselves as police personnel. Apart from this, in the Identification Parade also, the two Accused were specifically identified. Considering the gravity and seriousness of the offences as they had impersonated the police officer, and conspired to distribute the money amongst themselves, I refused the relief prayed.

Being aggrieved by the rejection, the Applicant approached the Apex Court and by order dated 05.04.2023, Special Leave Petition was dismissed, by recording that no ground for interference in the impugned order was made out.

2] This Bail Application filed for the second time is premised on the ground of parity and reliance is placed upon the order passed in the case of co-accused Nilesh Bhingardive, by Sessions Court at Dindoshi, Borivali Division, Mumbai and second order in the case of co-accused accused Dilshad Israr Siddique @ Shaikh passed by this Court

(Justice Shivkumar Dige) on 17.10.2023.

I have perused the order passed in respect of accused Nilesh Bhingardive. The Sessions Judge, instead of focusing on the seriousness of the accusations, is impressed by the delay in lodging the report and recorded a finding that the report is lodged on the basis of hearsay and the person who is actual owner of the amount of Rs.12,00,00,000/- has not lodged any report and there are several discrepancies in the statement of the witness about the alleged incident and the place of incident and, further, the number of currency notes are not mentioned in the record.

3] I must mention that, all these aspects are the matter of trial and definitely when the material in the charge-sheet support the accusation about impersonation by the Accused, the recording of the Sessions Judge, in my view, is prima facie travelling beyond his power.

In any case, the finding is not binding upon me and particularly when I rejected the Bail Application in the first round, I had culled out the specific role of the accused persons, which had surfaced through the charge-sheet.

Apart from this, it appears that Nilesh, was also suffering from ailment and requirement of his immediate medical treatment was

considered.

4] As far as order in the case of Dilshad Israr Siddique @ Shaikh is concerned, Justice Dige, has specifically recorded that the role attributed to the Applicant in comparison of other co accused who has been released on bail is lesser and it is not clear from the said order as to from which co accused, Dilshad had drawn parity and it is recorded that, APP on instructions has fairly submitted that the role attributed to the Applicant and co-accused is on similar footing, and the above statement permitted the release of the co-accused Dilshad Israr.

I do not find any parity for the applicant, from the orders passed in favour of the co accused, since I am still of the firm opinion that the offence is grave and serious and since the present Applicant happens to be kingpin of the offence, where the money was procured by personating themselves as police personnel, the present Applicant did not deserve his release on bail.

Hence, Bail Application preferred for second time must also meet the same fate.

In the wake of above, Bail Application stands rejected.

5] Considering the fact that the accused was arrested in the year 2021, I request the learned trial Judge, to frame the charge

expeditiously and every attempt shall be made to undertake the exercise before 31.01.2024.

Needless to state that the observations are limited for the decision of the present Bail Application and the trial Court shall not feel bound or influenced in any manner.

[BHARATI DANGRE, J]