

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

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CRIMINAL APPLICATION (BA) NO.108/2023

Bhikaji Sheshrao Ghuge

.. Applicant

versus

The State of Maharashtra

Th: Its PSO ACB Dist.Buldana and another.

.. Respondent/s

.....
Mr. Y.N.Sambre, Adv.for the applicant

Mr I.J.Damle, APP for Respondent
.....

CORAM: ANIL L. PANSARE, J.

DATED : 20th February, 2023.

PC:

This is an application under Section 439 of the Code of Criminal Procedure. The applicant has been arrested on 29.12.2022 in Crime No.1032/2022 registered at Police Station, Buldhana for the offences punishable under Sections 7, 7A and 12 of the Anti Corruption Act.

2. Having heard both the sides, it transpires that the applicant is the accused no.1 and was working as Deputy Collector at the relevant time. The accused no.2 is the Clerk working in the office of the Deputy Collector, whereas the accused no.3 is an Advocate. According to the informant, his land was acquired for Jigaon Project, towards which he was to receive compensation of Rs. 21 lakhs. However, in the record, there occurred a mistake in his father's name and, therefore, the same was to be corrected for releasing amount of the compensation. The

informant approached the office of the applicant. He met accused no.2 who, in turn, has introduced the informant to the applicant. The applicant is said to have demanded an amount of Rs.1 lakh as illegal gratification for making the correction in the name. Accordingly, a trap was laid and on 29.12.2022, the accused no.3-Advocate was caught red handed while accepting the illegal gratification on behalf of the applicant.

3. The learned counsel for the applicant submits that the applicant has been falsely implicated in the crime. He further submits that the entire evidence has been collected and nothing is to be recovered at the instance of applicant. His house has been raided and his voice sample has been obtained.

4. The learned APP however submits that the applicant has also committed other lapses. A complaint has been received to the effect that the applicant has disbursed the compensation of land belonging to three persons, to some others without verifying the record. According to him, the applicant is in habit of taking illegal gratification from the innocent persons. He further submits that the applicant is facing contempt proceedings bearing No. 132/2022 before this Court. He further submits that the applicant had previously faced similar such allegation and was booked in Crime No. 95/2014 while accepting bribe but ultimately he came to be acquitted.

5. I have gone through the case diary and the material placed before me. The bribe in question has been accepted by the Advocate and not by the applicant. Nonetheless the pre-trap *panchnama* indicates that

the applicant has demanded illegal gratification. The experience shows that in the trap cases, almost entire evidence is collected on the date of the trap itself. The present case is no exception. The pre-trap panchnama, post-trap panchnama has been drawn. The decoy amount, clothes documents pending in the office for which bribe has been sought have been seized. The voice sample of the applicant is also taken. Nothing is to be recovered from the applicant or at his instance. Though the learned APP has referred to previous case, the applicant has been acquitted. This affirms the principle that every accused person is presumed to be innocent until proven guilty.

6. The learned APP submits that the charge-sheet is likely to be filed soon. If that be so, no fruitful purpose would be served by keeping the applicant behind bars. The interest of prosecution can be protected by putting the applicant to appropriate terms.

7. Needless to mention, that the observations made hereinabove are for the purpose of deciding this Application only and the trial Court shall not get influenced by it.

8. Hence, the following order :

ORDER

(i) The Application is allowed.

(ii) The applicant-Bhikaji Sheshrao Ghuge, be released on bail, in connection with Crime No.1032/2022 registered with Police Station Buldana for the offences punishable under Sections 7, 7A and 12 of the Prevention of Corruption Act, on he furnishing P.R. bond in the sum of Rs. 50,000/- with one or two sureties in the like amount.

(iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating officer and the Court concerned, and shall not change the residence till the final disposal of the case.

(iv) The applicant shall cooperate in the investigation and, if charge-sheet is filed, he shall regularly attend the court and cooperate the learned trial Court to complete the trial well within the time. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer.

(vi) In case of breach of any conditions, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The Application is disposed of in the above terms.

[ANIL L. PANSARE, J.]

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