



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

913 BAIL APPLICATION NO. 322 OF 2024

Pratap S/o Vasantrao Salunke.

... Applicant

Versus

The State of Maharashtra.

... Respondent

...

Mr. V. D. Sapkal, Senior Counsel, i/b Mr. Sandip R. Sapkal & Mr. Onkar R. Waghule a/w Mr. Amarnath S. Sakhare, Advocates for Applicant.

Mrs. Pratibha J. Bharad, APP for Respondent/State.

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CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 13th March, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.492 of 2023, registered with Gangapur Police Station, District Aurangabad (Chhatrapati Sambhaji Nagar), for the offences punishable under Sections 467, 468, 471 read with 34 of the Indian Penal Code and under Section 82 of the Registration Act, 1908.

3 It is averred in the report that one memorandum of

understanding (MOU) bearing No.7195 of 2018 was registered with the Sub Registrar Office, Gangapur. The Sub Registrar, Gangapur received a complaint that said MOU is false and fabricated document. The person who purported to be signed that document, denied execution. One Kalyan Salunke sent complaint to the Sub Registrar, Gangapur. The Sub Registrar, Gangapur conducted an inquiry and found that the applicant is involved in the said fabrication of MOU. It was traced out that group of farmers of Darjedar Agro Services Company Limited submitted that document for getting benefit of Government scheme. The amount of Rs.98,55,000/- was withdrawn from the office of District Superintendent Agriculture Officer under the project of Empowerment and Encouragement of Group Farming. Further subsidy amount of Rs.56,66,000/- was sanctioned by the Project Director (Atma) District Chief Project Implementation Center. The applicant submitted another project of rupees 6 Crores 26 Lacs 52 Thousand for the Darjedar Agro Services Company Limited, in which 577 persons are members. These members have no knowledge about submission of their names in the said project. The applicant got fabricated all those documents in order to get benefit of various agriculture schemes, which are meant for the welfare of farmers. Thus, the applicant forged the documents in order to cheat the Government. Therefore, the report was lodged by the Sub Registrar, Gangapur.

4 The learned Senior Counsel for applicant submitted that the applicant is falsely implicated in the crime. It was because of the dispute between him and his brother. Earlier to lodging of this report, the applicant also lodged a report on 25th September, 2023 against his brother for the offences punishable under Sections 384, 386, 500 and 506 of the IPC. Accordingly, Crime No.447 of 2023 is registered against his brother. The learned Senior Counsel for applicant submitted that it is the duty of Sub Registrar to verify the identity of persons executing the document as per Sections 58 and 60 of the Registration Act. There is presumption that he has verified it and it is correct. The learned Senior Counsel for applicant submitted various photographs and guidelines for implementation of the agriculture group farming scheme. He submitted that all the bills are paid by RTGS transaction. The photographs of various functions and activities of Darjedar Agro Services Company Limited show that the brother of this applicant was present for the said functions. The Agriculture Department, who granted benefit to that company had no any objection and they have not made any complaint. All the activities were monitored by the Nodal Officer, who is Government Officer. There is no such element of cheating. The applicant has been falsely implicated in the crime. It is lastly prayed to allow the application.

5 The learned Senior Counsel for the applicant is relying upon the following authorities:-

I) ***Satender Kumar Antil Vs. Central Bureau of Investigation and another, 2022 Live Law (SC) 577***, in which the Honourable Apex Court held as under:-

“66. What is left for us now to discuss are the economic offences. The question for consideration is whether it should be treated as a class of its own or otherwise. This issue has already been dealt with by this Court in the case of **P. Chidambaram v. Directorate of Enforcement**, (2020) 13 SCC 791, after taking note of the earlier decisions governing the field. The gravity of the offence, the object of the Special Act, and the attending circumstances are a few of the factors to be taken note of, along with the period of sentence. After all, an economic offence cannot be classified as such, as it may involve various activities and may differ from one case to another. Therefore, it is not advisable on the part of the court to categorise all the offences into one group and deny bail on that basis.”

II) ***P. Chidambaram Vs. Central Bureau of Investigation, AIR 2019 Supreme Court 5272***, in which the Honourable Apex Court held as under:-

“22. There is no hard and fast rule regarding

grant or refusal to grant bail. Each case has to be considered on the facts and circumstances of each case and on its own merits. The discretion of the court has to be exercised judiciously and not in an arbitrary manner. At this stage itself, it is necessary for us to indicate that we are unable to accept the contention of the learned Solicitor General that "flight risk" of economic offenders should be looked at as a national phenomenon and be dealt with in that manner merely because certain other offenders have flown out of the country. The same cannot, in our view, be put in a straight-jacket formula so as to deny bail to the one who is before the Court, due to the conduct of other offenders, if the person under consideration is otherwise entitled to bail on the merits of his own case. Hence, in our view, such consideration including as to "flight risk" is to be made on individual basis being uninfluenced by the unconnected cases, more so, when the personal liberty is involved."

III) ***Ramesh Prasad Vs. State of U.P. (Criminal Misc. Bail Application No.41890 of 2022)***, in which the Allahabad High Court held as under:-

"13. Innocence of a person accused of an offense is presumed through a legal fiction, placing the onus on the prosecution to prove the guilt before the Court. Thus, it is for that agency to satisfy the Court that the arrest made was warranted and enlargement on bail is to be denied."

6 The learned APP for the State strongly opposed the application and submitted that the applicant is involved in the serious crime. There is *prima-facie* evidence against the applicant. The applicant has fabricated the false document and misused it for cheating the State Government and procured lakhs of rupees. The applicant has criminal antecedents. He is prosecuted in three different crimes bearing Crime Nos.57 of 2005, Crime No.225 of 2018 and Crime No.492 of 2023. It is lastly prayed to reject the application.

7 Perused the charge-sheet, particularly, the report as well as the statements of witnesses. Some documents, particularly, photographs show that the applicant is dealing with those alleged machinery etc. The applicant is not propounder of this institution. His salary is not paid by the main accused. Considering peculiar set of facts of this case and principle that bail is rule and jail is exception, without adverting into the merits of the case, considering the role of this applicant, he has roots in the society, his presence can be secured for the trial and the trial will take long period, the application deserves to be allowed on certain conditions. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.492 of 2023,

registered with Gangapur Police Station, District Aurangabad (Chhatrapati Sambhaji Nagar), for the offences punishable under Sections 467, 468, 471 read with 34 of the Indian Penal Code and under Section 82 of the Registration Act, 1908, be released on bail on furnishing personal bond of Rs.50,000/- with surety of the like amount on following conditions:-

- a) The applicant shall not pressurize the prosecution witnesses, in any manner.
- b) The applicant shall not tamper with the prosecution evidence, in any manner.
- c) If breach of any of the above conditions is noticed by the Trial Court, the Trial Court is at liberty to proceed to cancel the bail of this applicant without reference to this Court.

[SANJAY A. DESHMUKH, J.]

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