2024:BHC-AUG:7362

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 339 OF 2024

. Shakeel Ahmed Mohammad Akil Ansari
Age: 57 years, Occu.: Business,
R/o. Muslim Nagar, Vadjai Road, Dhule,
Tq. & Dist.Dhule. ….Applicant

Versus

1. The State of Maharashtra
Through Police Station Officer,
Dhule City Police Station,
Taluka and District Dhule.

2. The Superintendent of Police,
Dhule, District Dhule. …..Respondents

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WITH

CRIMINAL APPLICATION NO. 1147 OF 2024
IN ABA/339/2024

. Zamir Ahemad Mo. Amin,
Age: 63 years, Occu.: Retired,
R/o. Plot No.2, Aqsa Nagar,
Vadjai Road, Dhule,
Tq. & Dist.Dhule. ….Applicant

Versus

1. Shakeel Ahemad Mo. Akil Ansari
Age: 57 years, Occu.: Business,
R/o. Muslim Nagar, Vadjai Road, Dhule,
Tq. & Dist.Dhule.

2. The State of Maharashtra
Through Police Station Officer,
Dhule City Police Station,
Taluka and District Dhule.

3. The Superintendent of Police,
Dhule, District Dhule. …..Respondents

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Advocate for Applicant in ABA no.339/2024 : Mr.Sudarshan Salunke
h/f. Mr.S.N. Suryawanshi
APP for Respondents-State : Mr.S.M.Ganachari
Advocate for Applicant in Cri.Appl.no.1147/2024 : Mr.D.S.Bagul

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 04 APRIL, 2024
PRONOUNCED ON : 05 APRIL, 2024

ORDER :

1. Apprehending arrest in Crime no.42 of 2024 registered at Dhule City Police Station, District Dhule for offence under Sections 420, 465, 468, 471, 120-B of the Indian Penal Code (IPC), applicant has preferred instant anticipatory bail application.

2. Mr.Salunke, learned Counsel for applicant would point out that present applicant is Proprietor of a Textile Unit. He is conducting business since receipt of registration from The Regional Deputy Director of Handlooms, Powerlooms and Co-operative Textiles, Mumbai. That required Shop Act licence is also obtained in 2003 and he is regularly paying required taxes. He further pointed out that in the years 2006, 2008 and 2009, he had approached District

Industries Center (DIC), Dhule for availing subsidy benefits. That on his application, authorities of said DIC paid site visit, got themselves satisfied of availability of all requirements and issued positive inspection report. That after verifying all documents required, eligibility certificate was also issued by said authorities. The same are appended herewith. That there was no irregularity or illegality, however, a person with whom applicant has animosity, filed a false complaint alleging submission of forged, fabricated documents for availing subsidy. That such complaint is unfortunately entertained and above crime is registered. Learned Counsel emphasized that Unit is being continuously run and business is being conducted uninterruptedly and no forged documents tendered as alleged. According to him, all local authorities and bodies like Corporation have on due satisfaction, issued necessary documents.

3. He further submitted that considering the nature of accusations, nothing is to be recovered from the applicant and primarily, when allegations are of forgery of documents and the same being already available with all authorities including investigating machinery, his custodial interrogation is not necessary. That he is ready to cooperate the investigating machinery and moreover, he is

also ready to furnish solvent surety of any amount as sought by this Court and further ready to abide by all and any conditions imposed by this Court. Hence, relief of anticipatory bail is prayed for.

4. Learned APP strongly opposed anticipatory pointing out that apparently fraud has been played on the Government for availing subsidy by tendering false, forged and manufactured documents. That on receipt of complaint, competent authority has carried out thorough enquiry, which revealed submission of forged documents. That enquiry report is placed on record. That huge benefits are availed by making use of fabricated documents and loan has been availed to the tune of Rs.21,76,000/-. That the plot on which business was initially started was also said to be sold. That electricity bills are found to be forged and not connected to applicant. According to learned APP, thorough investigation is necessary to unearth the very manufacturing and fabrication of forged documents. That investigation is not proceeding in appropriate direction as applicant is absconding. Resultantly, he prays to reject the application.

Criminal Application No.1147 of 2024 is filed by one of the complainants seeking permission to assist APP.

Permission is granted. Criminal Application No.1147 of 2024 is allowed and disposed of.

De facto complainant has assisted learned APP and he seeks permission to adopt the argument advanced by learned APP.

5. Heard at length.

6. Dhule City Police Station seems to have registered Crime bearing no.42 of 2024 for above offences on complaint being received from one Nimbaji Pitamber Patil officiating in DIC Dhule. Perused the said complaint dated 30-01-2024. The gist of the complaint is that through their office, Government of Maharashtra implements various schemes to promote industries by supplying grants and subsidies. According to complainant, present applicant tendered application on 30-06-2006 for grant of industrial loan for his textile business being conducted on plot no.6, Muslim Nagar, Wadjai road, Dhule, by annexing documents. DIC sanctioned subsidy amount to the tune of Rs.21,76,000/- by imposing certain conditions, which are expected to be scrupulously followed.

7. It is further informed that DIC was in receipt of complaint from

one Shaikh Shakil Shaikh Ibrahim, who is also resident of Muslim Nagar, Dhule, informing that present applicant for availing benefits had tendered forged documents i.e. documents of the then MSEB, Town Planning and address of the business is also distinct. Resultantly, enquiry was got done, which revealed truth and substance in the allegations levelled by said Shaikh Shakil Shaikh Ibrahim.

8. It is also stated in the complaint that complaint was also made to this Bench vide Public Interest Litigation No.127 of 2013 wherein directions were issued for appropriate action and consequently, all District Level Authorities were visited and enquiries were made. Complaint of similar nature was also received against present applicant and crime no.254 of 2014 to that extent was registered at Azad Nagar Police Station, Dhule i.e. for submitting forged and fabricated documents thereby cheating and playing fraud on the Government.

9. Perused the papers placed on record by learned APP as well as enquiry report drawn by General Manager, DIC, Dhule. It appears that the enquiry report is concluded with finding that the applicant

has tendered fabricated and manufactured documents of various authorities like the then MSEB, Town Planning for availing special incentives i.e. to the tune of Rs.21,76,000/-.

Learned Counsel for applicant, on Court query, admitted that original plot has been changed for conducting business, but according to him, the said plot belongs to his sister.

However, the permission accorded by DIC specifically stipulates a condition of not to change address without prior intimation and permission of DIC. Therefore, essential conditions also are *prima facie* flouted. There are allegations of commission of offence under Sections 468, 471, 120-B of the IPC.

According to learned APP, investigation is yet to be carried out as to who all are involved with applicant and moreover, there is charge of 120-B of the IPC and therefore, thorough investigation is necessary.

10. Learned counsel for applicant rejoined by submitting that in the case in hand maximum sentence provided is up to seven years and therefore, in view judgment in the case of *Arnesh Kumar v. State of Bihar and Another, (2014) 8 SCC 273*, applicant is entitled for relief.

11. To sum up, here apparently allegations are of tendering forged documents of Maharashtra State Electricity Distribution Company as well as Town Planning Department. Said authorities have reported and denied issuing any documents in favour of applicant. Therefore, *prima facie* accusations do have a foundation. Said documents are tendered for availing incentives extended by the Government for promoting industrial growth meant for persons, who are genuinely intending to promote industry. Here applicant has indulged in fabricating and manufacturing documents of the Government Instrumentalities itself. Consequently, fraud seems to have been played on the Government itself. Considering the nature of allegations and the submission that thorough investigation is necessary and considering the submission of learned APP about possibility of involvement of others to be unearth, investigating machinery needs to be given a free hand. Even otherwise, instant anticipatory bail application is filed on 26-02-2024 regarding a complaint, which is registered on 30-01-2024.

Consequently for thorough and meaningful investigation, prayers so raised cannot be considered even if investigation pertains to documents. Accordingly, I proceed to pass following order :

ORDER

Anticipatory Bail Application No.339 of 2024 is rejected.

(ABHAY S. WAGHWASE)
JUDGE

SPT