



(1)

941ba791.24

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

941 BAIL APPLICATION NO. 791 OF 2024

DNYANESHWAR LAXMAN WARE

....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. S. J. Salunke, Advocate for the applicant
Mr. S. A. Gaikwad, APP for the respondents/State
Adv. Sabhat Kazi, Assist to APP

CORAM : SANJAY A. DESHMUKH, J.

DATE : 08th MAY, 2024

P. C.

1. This is an application for granting bail under Section 439 of the Code of Criminal Procedure. The applicant is arrested in Crime No.296/2024 registered with Nawapur Police Station, Dist. Nandurbar for the offences punishable under Section 7 of Prevention of Corruption Act, 1988.

2. It is averred in the report that the applicant is PI and serving with the Nandurbar Police Station. The informant averred in the report that he and Narendra Nagrale are friends.

A crime No. 583/2023 was registered against Narendra Nagrale under Section 65-m, 81, 83, 98 (2) of the Maharashtra Prohibition Act in Songad Police Station, Dist. Tapi State Gujrat on 17-12-2023. During investigation of the crime LCB Tapi State of Gujrat Nawapur Police Station visited the Nandurbar Police Station where the applicant was In-charge. That time Narendra Nagrale the friend of informant were called by this applicant for enquiry. The applicant assured that in the crime No. 583/2023 he will act as mediator and save the friend of informant from the arrest. For that he demanded bribe amount of Rs.2,50,000/-. The informant told that fact to the Narendra Nagrale. He has paid Rs.1 lakh to the applicant. The applicant was demanding remaining bribe amount of Rs.1,50,000/-. The informant was not willing to pay that amount. Therefore, he went to the ACB at Nashik and lodged the complaint dated 24-04-2024. The PI Sandip Ghuge, ACB accordingly planned to verify as to whether there is really a demand of bribe. The voice recorder was given with the complainant to record the conversation. The informant alongwith panch Amit Patil were sent with instruction to the

house of this applicant at Nawapur. While discussion between them informant-complainant said that one box is received. On that day the applicant said that 'काही करा' means to pay any how Rs.2,50,000/-to him. When the complainant said that Narendra Nagrale is not willing to pay the bribe amount, that time this applicant abused him that अरे चुतिलयाए बोलना तेरे को भगा दिया उस दिन, भाडखाउ घर मे था उस दिन. Thereafter, the complainant said that मै बोला देख, एक पेटी तो मै दे दिया उस दिन, पचास और दे दुंगा. Thereafter, the applicant insisted for that bribe. The complainant insisted for reducing that amount of Rs.50,000/-. Then he asked as to who is the another person. Thereafter he agreed to pay that amount of Rs.50,000/-. Earlier to that an amount of Rs.25,000/- was demanded by the applicant in respect of the crime registered against Mujahid. The complainant said that he will come along with Narendra Nagrale and with that bribe amount. On that applicant said that today matter shall be finalized. Ultimately bribe amount of Rs.50,000/- was agreed to be paid and accepted. Said conversation was recorded in the voice recorder.

3. The verification panchnama was drawn up. Accordingly the trap was arranged and anthracene powder was applied on the currency notes of 100 rupees denomination in presence of panch No.1 Patil. The bribe amount of Rs.50,000/- was accepted by the applicant. He was caught hold in the presence of panchas. The applicant was arrested and accordingly seizure panchanama of that amount was drawn up .

4. Learned counsel for the applicant submits that the applicant is falsely implicated in the crime. He had effected the raid against some accused who were carrying the illicit liquor and therefore, he is falsely implicated in the crime. The applicant has roots in the society. The custody of the applicant is not necessary. He has no criminal antecedents. He Lastly prayed to allow the application.

5. Learned APP strongly opposed the application and pointed out that the applicant is involved in the serious crime.

An amount of Rs.25,87,230/- is seized from his house for which he has no explanation. The investigation is in progress. The custody of the applicant is necessary for further investigation regarding that seized amount. Learned APP pointed out the papers of the investigation particularly conversation recorded in the tape recorder in which actual conversation is recorded and discussion about the bribe amount has taken place. The investigation is not yet completed. He lastly prayed to reject the application.

6. Perused the papers of investigation, report, complaint, demand verification panchnama, trap panchanama and seizure panchanama of bribe amount. The applicant is involved in the serious crime. Huge amount of Rs.25,87,230/- is seized from the house of the applicant after the raid was effected. Considering the status of this applicant that he is senior PI, there is possibility of causing of interference in the investigation. There is possibility of pressurizing the prosecution witnesses. As far as the seized amount of Rs.25,87,230/- from

the house of this applicant is concerned, Investigating Officer has to investigate as to from where the said amount came into the possession of this applicant. Now, it cannot be accepted that the applicant collected that amount of Rs. 19 Lac from one Nilesh Sable and from one Atmaram Rs.6.50 Lac for education fee of his daughter who is student of MBBS at Nashik. To accept explanation regarding that amount there is absolutely no any material to show that Nilesh Sable and Atmaram are relatives or friends of the applicant and that they paid that amount from their particular bank account etc. to the applicant. The practical investigation is not yet over.

7. The applicant is booked for serious crime. It may be case of disproportionate assets for which applicant's custody is necessary. Thus as per guidelines and law laid down in the case of **Deepak Yadav Vs. State Of Uttar Pradesh And Another, (2022) 8 SSC 559**, and **Shahzad Hasan Khan Vs. Ishtiaq Hasan And Another, (1987) 2 SCC 648**, that applicant is certainly not entitled for bail. Considering all these aspects at this stage that

investigation is in progress, the applicant cannot be released on bail. For the reasons stated above, the argument of learned advocate for the applicant is not acceptable. The applicant is not entitled for bail on the principle that bail is a rule and jail is an exception. Therefore, the application deserves to be rejected. The application is rejected.

8. All these observations are prima-facie in nature for the purpose of deciding this application only. The trial court shall not get influenced by the same during trial.

[SANJAY A. DESHMUKH, J.]

VishalK/941ba791.24