



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1063 OF 2024

Shakeel Ahmad Akeel Ali Ansari

Age : 57 years, Occ. Business,

R/o : Muslim Nagar, Survey No. 445/1,

Vadjai Road, Dhule, Tq. & Dist. Dhule.

... Applicant

Versus

The State of Maharashtra

Through it's Police Inspector,

City Police Station, Dhule,

District Dhule.

... Respondent

WITH

CRIMINAL APPLICATION NO. 2800 OF 2024

IN BAIL APPLICATION NO. 1063 OF 2024

Zamir Ahemad Mo. Amin,

Age : 63 years, Occu. : Retired,

R/o : Plot No. 2, Aqsa Nagar,

Vadjai Road, Dhule,

Tq. and Dist. Dhule.

... Applicant

Versus

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

2. The State of Maharashtra
Through Police Station Officer,
Dhule City Police Station,
Tq. and Dist. Dhule.

3. The Superintendent of Police,
Dhule, Dist. Dhule.

... Respondents

.....

Mr. N. L. Chaudhari, Advocate for the Applicant in BA/1063/2024.
Mrs. Chaitali Choudhari Kutti, APP for the Respondent-State.
Mr. D. S. Bagul, Advocate for the Applicant in Cri.Appln/2800/2024.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 24.07.2024

Pronounced on : 30.07.2024

ORDER :

1. By invoking 439 of the Code of Criminal Procedure [Cr.P.C.], the applicant who is in judicial custody, has preferred instant application for grant of regular bail.

2. One of the complainants has also preferred Criminal Application No. 2800 of 2024 seeking permission to assist APP. Permission is granted. Criminal Application No. 2800 of 2024 is allowed and disposed of.

3. In support of relief, learned counsel for applicant pointed out that after registration of FIR, applicant had attempted to seek relief of pre-arrest bail, but this Court had refused the same. That, applicant himself surrendered and is behind bars since then. According to him, now investigation is almost complete. Nothing is to be recovered from applicant. Learned counsel would point out that even otherwise,

entire investigation pertains to documentary evidence and investigating machinery has already laid its hand on the same and therefore, nothing new is to be recovered or discovered. He therefore submits that no fruitful purpose would be served by applicant's continued detention when he undertakes to abide all conditions and co-operate the investigating machinery as and when required.

4. Learned APP, assisted by learned counsel for the complainant, strongly opposed by submitted that serious fraud has been played on the Government. Exchequer's money has been misappropriated and misutilized by using false, forged and fabricated documents. That, applicant has criminal antecedents for committing similar crimes. That, investigation is not yet complete. Both learned counsels, in unison, strenuously submitted that recovery of money is yet to be made and therefore they submit that it is not a case to grant relief as prayed. Reliance is placed on the judgment of Hon'ble Apex Court in the case of *P. Chidambaram v. Directorate of Enforcement* (2019) 9 SCC 24.

5. Perused the papers. It is revealed that Dhule City Police Station registered crime bearing no. 42 of 2024 on report dated 30.01.2024 lodged by Nimbaji Pitambar Patil, an official of District Industries

Center (DIC), Ghodade, Taluka Sakri, District Dhule and its sum and substance is that present applicant, who is shown to be proprietor of API Con Textile, for availing subsidy made available by the Government, tendered forged documents, quotations, construction plan/permission with regard to plot Survey no. 445/1, however, did not undertake any business activity and thereby cheated Government and therefore, crime was registered for commission of offence under Sections 420, 465, 468, 471 and 120-B of IPC. Papers show that attempt to seek regular bail before Additional Sessions Judge Dhule, vide Criminal Bail Application No. 563 of 2024 was turned down by learned Additional Sessions Judge, Dhule on 15.06.2024, resulting into filing of instant application before this Court.

6. Papers further show that after registration of crime, pre-arrest bail application was pressed into service and this Court had occasion to deal and decide the same and admittedly, relief was refused by this Court by order dated 05.04.2024. Papers show that applicant had surrendered himself and was resultantly arrested on 22.05.2024 and is currently in judicial custody since 31.05.2024.

7. State, as well as counsel for applicant who is assisting learned APP, is primarily opposing regular bail application on the ground that

economic fraud has been played on Government and secondly, recovery of amount of Rupees Twenty Lakh and some odd amount is yet to be caused. That, in another crime, while deciding Criminal Application 1077/2015 on 11.03.2015, while granting bail to the applicant, this Court had imposed condition of depositing Rs.3,67,000/-. Thirdly, learned APP submits that, there are criminal antecedents.

8. It is emerging from the police papers placed on record and also there is no dispute that applicant was arrested on 22.05.2024. Say of Investigating Officer is primarily that, applicant is not giving information and there is possibility of tampering with the evidence. Focus of investigating machinery seems to be that recovery of amount from him would be difficult if he is released on bail. Submissions of learned APP and police papers do not show that any further documents are yet to be laid hands on. He is admittedly behind bars since 22.05.2024 and is currently in judicial custody.

9. Very recently the Hon'ble Apex Court in Criminal Appeal arising out of SLP (Crl.) No. 5916/2024 i.e. ***U. N. Gupta @ Udhav Narayan Gupta & Others v. The State of Bihar & Another***, decided on 22.07.2024, by referring to its earlier decisions in ***Ramesh Kumar v.***

State (NCT of Delhi) (2023) 7 SCC 461; *St. George Dsouza v. State (NCT of Delhi)* (2023) SCC OnLine SC 1940 and *Dilip Singh v. State of M. P. & Another* (2021) 2 SCC 779, which were also on allegations of commission of offence under Sections 420, 406, 120-B of IPC, has observed in para 5 as under :

“..... Having regard to the settled principles of law laid down in the decisions referred to above, inter alia, to the effect that the courts, exercising jurisdiction to grant bail/pre-arrest bail, are not expected to act as recovery agents for realization of dues of the complainant from the accused, the High Court ought to have independently apply its mind and arrive at a conclusion as to whether a case for grant of bail had been made out or not on settled parameters, irrespective of whatever submission had been advanced on behalf of the appellants.”

10. Keeping above pronouncement in mind, here also, bail is primarily opposed on the ground that recovery of amount would be impossible. Admittedly, for last more than two months, applicant is behind bars. Nothing new is shown to be recovered or discovered. Investigation pertains to documentary evidence. Keeping above dealt law of the highest court of the land in mind, no good ground is made out for refusing relief.

11. Perused the ruling cited by learned APP. With due respect, the same cannot be applied here as the proceedings therein were initiated for commission of offence pertaining to Prevention of Money Laundering Act, 2002. Hence, I proceed to pass the following order :

ORDER

- I. The Bail Application No. 1063 of 2024 is allowed.
- II. The applicant Shakeel Ahmad Akeel Ali Ansari be released on bail in connection with Crime No. 42 of 2024 registered with City Police Station, Dhule, District Dhule for the offences punishable under Sections 420, 465, 468, 471, 120-B and Section 409 of IPC, on his furnishing P.B. of Rs.50,000/- with one solvent surety in the like amount on the following conditions :
 - a] The applicant shall not tamper with the prosecution evidence in any manner.
 - b] The applicant shall attend the concerned police station once in a week i.e. on every Sunday between 09.00 a.m. to 11.00 a.m. till filing of the chargesheet.
- III. Application is accordingly disposed off.

[ABHAY S. WAGHWASE, J.]