IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1190 OF 2024

NANDU SUDAM BORSE
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Ms. Pradnya Talekar for and on behalf of Talekar And Associates
APP for Respondent : Ms. M. N. Ghanekar
…
WITH
CRIMINAL APPLICATION NO. 3404 OF 2024
IN BA/1190/2024

BHAUSAHEB BHAURAO PAWAR
VERSUS
NANDU SUDAM BORSE AND ANOTHER
...
Advocate for Applicant/assist to PP : Ms. Gausiya N. Sayyed holding for Mr. M. A. Tandale
…

CORAM : S. G. MEHARE, J.
DATE : 21-08-2024

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for respondent/State and the learned counsel for the complainant.

2. The applicant seeks bail in C.R.No.339 OF 2023 registered with Jalgaon Police Station, Jalgaon for the offences punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code.

3. It has been alleged against the applicant/accused that he was appealing the people to invest or for assisting to grow his business by depositing money. He was winning over confidence of public by showing the document of his import export business. He used to accept a huge amount and partly paying the amount to show his *bona fide*. However, he had no business as such. He did not pay returns as he promised. The complainant and other persons were complaining against the applicant that they were not doing the business what they were telling. It has been alleged against him that a Fortuner car of the complainant was taken for use and it was mortgaged to a third person.

4. The learned counsel for the applicant has vehemently argued that the prosecution has no material to show that the applicant has committed forgery. The firm of the applicant was registered and its documents were available on website. Recently, the prosecution has admitted that the firm was registered. It has been further argued that the applicant was *bona fide* returning the amount to the depositors. The transactions were done through bank. He was regular income tax assessee. He was paying G.S.T. for his business. Therefore, the allegations of making forgery are false and baseless. The applicant also returned the money to the complainant by selling his property to his father-in-law. The bank account shows that immediately after the transfer of immovable

property, the amount was transferred to the account of complainant. Reading the papers on record, she submits that there is no material to believe that the applicant had ever intention to cheat the depositors. The applicant is languishing in jail from last 11 months. The chargesheet is filed. The trial may take its time. Hence, he may be granted bail.

5. The learned A.P.P. has strongly opposed the application. She would argue that the *modus operandi* of the applicant is important. He used to collect the money from public and instead of investing it in the business, using money for his own. Though part payment of the amount was made, the applicant did not pay the huge balance amount. Though the company is registered, there was no material with the applicant to show that he was doing import export business. The applicant has siphoned a huge amount more than Rs.15 Crore from different persons. If the applicant is granted bail, there may be more scapegoats.

6. The learned counsel for the complainant has vehemently opposed the application. She points out that a similarly situated co-accused has been refused bail by this Court and the trial was directed to be expedited. She also placed on record another first information report registered against the applicant with Rajasthan Police for the identical acts. The applicant collected a huge amount

in the State of Rajasthan but money was not refunded. *Modus operandi* of the applicant shows that he intended to cheat the people by making part payment. A proceeding under section 138 of the Negotiable Instruments Act has also been initiated against the applicant and his brother.

7. Perused the record.

8. In view of documents on record and arguments advanced, it is alleged that the applicant has committed forgery. However, the fact remains that this Court refused the bail to the similarly situated co-accused. This Court has no reason to take a different view.

9. So far as lenient view is concerned, the *modus operandi* of the applicant is important. He had not collected money only in the State of Maharashtra but also from the persons from State of Rajasthan. Merely having registration of import export business may not be a reason to disbelieve the complainant. It is true that he is the income tax assessee and paying the G.S.T. to the Government. It is also not in dispute that he has refunded the amount to the complainant. Again, it does not mean that the applicant has no intention to cheat. That apart, this Court, by order dated 09.05.2024 directed the trial Court to expedite the trial, probably, within six months. That period is yet not over.

Considering the gravity of the offence and the possibility of committing the same crime, the Court is not inclined to grant him bail.

10. Hence, for the above reasons, the bail application stands dismissed.

11. Criminal Application No.3404 of 2024 stands allowed and disposed of.

(S. G. MEHARE)
JUDGE

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