2024:BHC-AUG:25231

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1599 OF 2024
WITH
CRIMINAL APPLICATION NO. 4138 OF 2024
IN BA/1599/2024

Amit Jagadish Khattar
VERSUS
The State Of Maharashtra
...
Advocate for Applicant : Mr. Gore Ravindra Vitthal
APP for Respondent/State : Ms. Vaishali S. Choudhari
Advocate for Complainant : Mr. Ravindra B. Ade
...

CORAM : S.G. MEHARE, J.

DATED : OCTOBER 08, 2024

PER COURT :-

1. The applicant seeks bail in Crime No.546 of 2023 registered with S.B. Jalna Police Station, District Jalna for the offences punishable under Sections 406, 420, 465, 467, 468, 471, 120-B, 506 r/w 34 of the Indian Penal Code and Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999 ('MPID Act' for short).

2. The prosecution case in brief is that the applicant was engaged in business. He has also the country and foreign liquor shop. When the complainant met him, he told him that they have various liquor licences in the name of his son and daughter-in-law, for sale. He would arrange to sell him at a cheap rate. The complainant denied to accept his offer, but he lured the complainant that there is a

huge profit in the liquor business. He assured him that he may make Rs.10 to 15 lac profit. His son has business under the name of Krushna Associates and Developers at Chhattrapati Sambhajinagar. He went there to meet him. His son, daughter-in-law and wife were present in the office. He told him that one Suruchi Wines Nagpur and S.A. Shaikh and Company Bhor have sold them the liquor shop licences and they have agreement with them. They have shown the agreement of transfer/sale of the liquor licence. They called somebody to gain his confidence. They were keeping the speaker of the mobile phone on and talking about the licences. The person from the other side was also replying him positively to make the complainant believe that he was dealing in such transfers. The applicant demanded 5% commission on each transaction. However, he showed the sympathy towards the applicant being from the village and said to him that he would charge 1% commission from him. Thereafter, they started meeting. The applicant has received a huge amount in Crores for transfer of the liquor shop licence. The amount of Rs.1,25,000/- were paid to the applicant through RTGS. He has received the total amount of Rs.6,30,00,000/-. However, after receiving the money, he started avoiding the complainant. In the due course, it was transpired that the so-called licence holder of the Suruchi Wines Nagpur and S.A. Shaikh and Company Bhor were impersonated and not real. Since the applicant did not keep his promise, he started demanding him money. So, he sent him Rs.9 lac to his bank. He also asked the middle man to ask the applicant to pay the money. At that time, co-accused Ajay Rathod threatened him that if he would go to him, he would broke his hands and legs through goons. On the above report, the FIR was registered. The applicant was arrested on 06.02.2024. Nothing is recovered from the applicant.

3. Learned counsel for the applicant has vehemently argued that no offence of MPID is made out. It was a contract and out of the contract, the money was paid. He also argued that it is just a violation of terms of the contract. Hence, it cannot be said that it was not the intention to cheat the complainant. The family members of the applicant were never the part of the transactions. Therefore, Section 120-B of the Indian Penal Code would also not apply. The informant is trying to convert a civil dispute as a criminal one to recover the money of commercial transaction. The first informant has already initiated 16 proceeding under Section 138 of the Negotiable Instruments Act. The allegations against him are vague and baseless. The applicant applied before the District Collector, Jalna for inserting the name of the complainant to the extent of 25% share in country liquor shop at Hasnabad, Bhokardhan. It was a licence in joint name with his wife. However, the Collector permanently cancelled that licence by an appropriate order. The appeal is tenable against that order. The FIR was also registered against the applicant for harassing

his family members. He has already returned Rs.18 lac to him. The applicant's mother has deposited Rs. 27 lac with the Court as per the order of the Hon'ble Supreme Court in her application for anticipatory bail. The FIR is delayed by more than a year. He also initiated proceeding for inserting his name in the liquor licence owned by the applicant. He lodged this report only for harassing him and his family members. He is a well respected person having good social stand in the society and has no criminal antecedents. He is ready to co-operate with the investigation and the trial. No case is made out as such against him. His custodial interrogation is not essential. Co-accused Nos. 2 to 5 have been released on bail by the Hon'ble Supreme Court. However, he did not claim bail on parity. He also argued that he is ready to abide the conditions imposed upon him, if he was enlarged on bail. He prayed to allow the application.

4. Learned APP for the State has strongly opposed the application. He would submit that it was a systematic cheating. The fake persons were stand to win over the confidence of the applicant. The so-called agreements executed for the liquor shop at Hon was totally false and the signatories to the documents were also false. The true licence holders have stated before the Court that they never had any agreement of sale with the applicant or the complainant through the applicant. He had knowledge that his licence at Hasnabad was in question, even then he falsely made an application to add the

complainant as a partner for 25% in the shop. The conduct of the applicant is material. He has cheated the complainant for a huge amount of more than Rs.6,30,00,000/- and from time to time he was receiving the money knowing that he could not fulfill his promise. Since, he did not return what he had promised against the receipt of the money, the offence under Section 420 of the Indian Penal Code is made out. When the talks were going on, his family members and so-called fake licence holders were either present or talking to the applicant on telephone. It is a systematic plan to cheat the complainant and put him to the huge financial loss. His conduct itself shows that, what reputation he had in the society. He is a rich man but has no good intention. He was exploiting his richness to cheat the people. In such a case, though the charge sheet is filed, the applicant may not be granted bail, because he is an influential person. He may cause danger to the life of the complainant or his family, because he has already threatened him to broke his hands and legs with the help of goons. Simultaneous criminal proceeding is not barred. The recovery proceeding is at its place. Therefore, the proceedings filed by the applicant under Section 138 of the Negotiable Instruments Act would not litigate the circumstances to release the applicant on bail. He is not a man to be believed. He was not bonafide. Creating such false documents is a serious offence of forgery against the true licence holders. Such an act is harmful to the State Excise Department. Therefore, he may not be granted bail.

5. Learned counsel for the complainant has advanced the similar arguments. In addition thereto, he would submit that the earlier bail application filed before charge sheet has been rejected. So, there are no new grounds. All the accused colluded with each other. Considering the support of the family, it could be said that his entire family was involved in such a crime. He is not a man of good reputation. He is a cheater. By showing them dreams to become millionaire by purchasing the liquor shop licence, a huge amount has been grabbed from the complainant. It may be a hard earned money. The applicant was skilled in convincing the innocent persons. The applicant may transfer his property to keep the matter pending. Therefore, he should not be granted bail.

6. The facts of the case have been discussed in detail. Hence, those are not reproduced. The allegations levelled against the applicant and the evidence collected against him, *prima facie* appears that since inception, he had an intention to cheat the complainant. He cheated the complainant for a huge amount of Rs.6,30,00,000/-. His conduct was apparent that he never had an intention to fulfill his promise. He has received the money in consideration of promise to transfer or sale the liquor licence in the name of the applicant at different places. Some fake persons were also supporting him, for

creating the false documents. These documents were affecting the rights of the real and genuine businessmen. The serious offence of cheating and forgery is *prima facie* made out against the applicant. Considering the *modus operandi* of the applicant, it would be harmful to grant him bail because there may be another scapegoat falling to his sweet words. He is an influential person and financially strong. The possibility of tampering with the prosecution witnesses cannot be ruled out. For the above reason, the application stands dismissed.

7. Criminal Application No.4138 of 2024 stands disposed of.

(S.G. MEHARE, J.)

Mujaheed//