

The State of Maharashtra ... Respondent

Advocate Sushrita Dage, for intervenor.

DATE : 8TH JULY, 2024.

3. The learned counsel for the applicant submits that there is no *prima facie* case made out against the applicant, and therefore,

even if there are antecedents, those cannot be considered. He submits that nothing has been recovered from the applicant, and there is no evidence to show that the applicant is involved in the alleged offence. He argues that though the applicant is referred in the FIR as an accountant; he is not an accountant but working as an office head. It is further submitted that the applicant is in jail from last 18 months and as the charge-sheet has been filed, further custody of the applicant is not necessary.

4. The learned counsel for the applicant has relied upon the following judgments: *“Archana Rana vs. State of U.P and Anr.”*¹ and *“Sanjay Chandra vs. Central Bureau of Investigation.”*²

5. On the other hand, the learned APP has strongly opposed the application and points out that there are five similar antecedents against the applicant. Moreover, *modus operandi* of the applicant is to cheat the people by different names. It is pointed out that though the applicant's name is Parvej Dastagir Sheikh, in the present matter he used his name as Rahul Bhat. It is pointed out that though the witnesses have not named the applicant in the FIR, however, the employees who were working under the accused, they specifically named the applicant and also stated the *modus operandi* of the applicant and other co-accused. It is further pointed out that Rs. 3 lakhs were recovered from the house of the applicant and there is ample evidence available on record to show the involvement of the applicant in the alleged offence.

1 Cri.Appeal No. 167 of 2021

2 (2012) AIR SCC 830

6. Having gone through the charge-sheet and the relevant material collected by the Investigating Officer during the investigation, it is evident that the applicant was an employee in the company of which the accused no. 1 is the owner.

7. From the statements of the witnesses the *modus operandi* of the accused persons has come on record and there is *prima facie* evidence to show that the applicant is involved in similar offences and he has indulged himself in using different names while committing such offence.

8. In the present matter, the applicant used his name as Rahul Bhat. Thus, considering the antecedents of similar nature and the *modus operandi*, coupled with the statements of the witnesses, which supports the prosecution case, it cannot be said that *prima facie* case is made out against the applicant.

9. In the circumstances, the judgments cited by the applicant, are of no aid to the applicant.

10. In the circumstances, the application is rejected.

11. Liberty is granted to the applicant to move afresh before trial Court after six months if there is no progress in the trial.

(ANIL S. KILOR, J)