



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.257 OF 2024

Sheikh Nabi @ Nabbo s/o Sheikh and others
Vs.
State of Maharashtra, Through Police Station Officer, Police Station,
Malegaon, Washim

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. S. Londhe, Advocate for applicants through video conferencing.
Mr. M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/04/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.68/2024 registered with Police Station, Malegaon, District Washim for the offences punishable under Sections 120-B, 170, 419, 420 read with Section 34 of the Indian Penal Code and under Section 3 of the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013, the applicants approached this Court for grant of pre-arrest bail.

2. The applicants are apprehending arrest at the hands of police as crime is registered on the basis of report lodged by Sachin Shrirang Deshmukh, who alleged that on 06.02.2024 in between 5.00 p.m. to 5.30 p.m., near Patur Bus Stand he was instigated to hand over Rs.8,00,000/-. He further alleged that one

Milind Gaikwad, his friend, who is resident of Pune gave a telephonic message to him that his friend namely Shahaji Chavan would gave excess amount to him. The said person was possessed one small box of medicine. He used to exceed the amount with the help of that box, therefore the complainant has handed over the said amount and he was duped. Not only this, the amount was snatched by the present applicants and other co-accused and the complainant was also assaulted by them. On the basis of said report, police have registered the crime against the present applicants.

3. Learned Counsel for the applicants submitted that as far as the allegations are concerned, which are false in nature. There is no *prima facie* material to connect the present applicants. They are implicated merely on the basis of the statement of the co-accused, their custodial interrogation is not required and therefore, they be protected by granting pre-arrest bail.

4. Per contra, learned APP strongly opposed the said application and invited the attention towards the *modus operandi* of the said persons who initially shown the demo showing that if the amount is invested with them that amount can be paid in double to them. They were holding the counterfeit currency notes and by showing the demo, they have impressed upon the complainant and the other

witnesses that they can get the double amount. Thus, the complainant was insisted to hand over the said amount and thereafter, the amount was snatched. One of the accused is arrested on the spot and on the basis of his statement, the names of the present applicants revealed. He submitted that thus there is a *prima facie* material against the present applicants and therefore, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicants and learned APP for the State, perused the investigation papers. From the recitals of the FIR, it revealed that the complainant was induced to pay the amount of Rs.8,00,000/-, some demonstration was shown to him. During the investigation, it revealed that the applicants were holding the counterfeit currency notes and with the help of the said counterfeit currency notes, they have shown that amount which is invested can be doubled and the investor can receive the double amount. The allegations in the FIR further shows that the applicants and other co-accused approached by travelling in four wheeler vehicle to the complainant, snatched the amount and also assaulted him. The statement of the complainant as well as other witnesses shows the involvement of the present applicants in the alleged offence. Considering the *modus operandi* of the present applicants and the statements of various witnesses, it reveals that not

only the complainant, other various persons are also duped in the similar manner. The custodial interrogation of the present applicants is required to ascertain the involvement of other persons in the alleged crime. Moreover, the amount is to be recovered, in view of that, no case is made out for grant of anticipatory bail.

6. It is well settled that considerations for grant of anticipatory bail and bail under Section 439 of the Code of Criminal Procedure are different. While considering the anticipatory bail Court has to consider the gravity of the offence and the punishment provided for the alleged offence as well as whether the accused will be available for trial or there is apprehension of fleeing away from justice.

7. Considering all these parameters, the applicants have not made out the case to grant anticipatory bail in their favour. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)