



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

CRIMINAL APPLICATION (BA) NO. 411 OF 2024

Nishant s/o Rajendra Kite (In jail) V/s State of Maharashtra.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. R.R. Vyas, counsel for the applicant.

Mr. H.R.Dhumale, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/04/2024.

1. The applicant came to be arrested on 06/03/2024, in connection with Crime No. 316/2024, registered with Wardha Police Station, District Wardha for the offence punishable under Sections 406, 408, 409, 420, 465, 467, 468, 471 of the Indian Penal Code, 1860.

2. The accusation against the present applicant is on the basis of report lodged by one Dhanjay Wagh, Assistant Superintendent serving in the Collector's Office. As per the allegation, the Land Acquisition Officer who is the main accused namely Swati Vasantrao Suryavanshi by misusing her post by preparing forged documents, misappropriated a huge sum, and put the government to loss. Before that inquiry, the committee was held by the Collector Wardha on 23/02/2024 and the report was lodged. During the inquiry, it was found that the main accused who was a Special Land Acquisition Officer had instructed one of the co-accused to bring

beneficiaries for availing land acquisition amount, and some amount was transferred in the account of the present applicant. On the basis of the same, the crime is registered and the applicant is arrested.

3. Learned counsel for the applicant submitted that the present applicant has to appear for the examination of M.A. which is scheduled from 02/05/2024. He further submitted that as far as the allegations are concerned, the amount of Rs. 4,79,389/- was transferred in his account. Out of that, the maximum amount was transferred to the account of Nitesh Yesankar. He submitted that during the investigation, the statement of Nitesh Yesankar was also recorded, and who informed the police that he received the amount from the present applicant. He submitted that the co-accused Nitesh Yesankar is the neighbourer of the present applicant and on the pretext of help, he obtained the said account number from the present applicant and transferred the said amount to his account without his knowledge. Now, the investigation is practically completed and further incarceration of the present applicant is not required. He has to appear for the examination, and in view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that the involvement of the present applicant is revealed as he is the beneficiary of the said amount. Considering the prima-facie case against him, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR as well as the bank account extract of the account of the present applicant. From which, it reveals that some amount of Rs. 4,79,389/- was transferred in his account through the Government cheque bearing No. 162841. It further reveals that out of the said amount, he has withdrawn Rs. 49,000/- and Rs. 2,30,000/- and some amount i.e. Rs. 2 Lack was transferred into the account of Nitesh Yesankar. During the investigation, the statement of said Nitesh Yesankar was recorded, who stated that he had received the amount from the present applicant. It appears that the present applicant was made a scapegoat to fulfill the desire of the co-accused i.e. Swati Suryawanshi who has used the said account for transferring the said amount. As far as the merit of the matter and the involvement of the present applicant is concerned, is a matter of evidence. At this stage, the amount is already received by the co-accused, therefore nothing is to be recovered from the present applicant. Considering his examination is scheduled on 02/05/2024 and the material collected during the investigation, the case is made out for grant of bail. In view of that, the criminal application is allowed by imposing certain conditions;

ORDER

- (a) The criminal application is **allowed**.
- (b) The applicant – Nishant s/o Rajendra Kite, shall be released on bail, in connection with Crime No.

316/2024, registered with Wardha Police Station, District Wardha for the offence punishable under Sections 406, 408, 409, 420, 465, 467, 468, 471 of the Indian Penal Code, 1860, on executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

- (c) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]