



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

CRIMINAL APPLICATION (BA) NO. 433 OF 2024

Dineshkumar s/o Parmeshwarlal Bhudariya Vs 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. S.V. Sirpurkar, counsel for applicant.

Ms. Soniya Thakur, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 26/07/2024.

1. The applicant came to be arrested on 03/08/2023, in connection with Crime No. 514/2023 registered with Lakadganj Police Station, Nagpur for the offence punishable under Section 120(B), 397 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report lodged by Pradip Hemraj Sarswat, who was subsequently made an accused in the said crime. It was alleged that on 01/08/2023, he collected the cash of Rs. 34,50,000/- from Sonu Anmol, and thereafter, Manager Amol and owner Virambhai asked the complainant to keep this cash in the Bhutada chamber locker. The complainant asked Pralad and Uttam to bring their cash to Sonu Anmol's shop. All of them together separated the cash into three different bags. Thereafter, they kept one bag in the dicky of the white activa and the other two bags in the front. The complainant, along with Pralad on white activa, went to Bhutada Chamber. While proceeding to Bhutada Chamber, two

people came in the middle, intercepted the vehicle and took the keys of the vehicle, and looted the said cash. On the basis of said report, the crime was registered against an unknown person. During the investigation, the present applicant is arrested. On an allegation that he has committed that robbery by intercepting the vehicle.

3. Learned counsel for the applicant Mr. S.V. Sirpurkar submitted that the entire case is based on circumstantial evidence, as far as the present applicant is concerned. Except the CCTV footage, there is no other material to connect him with the alleged offence. He further submitted that no test identification parade is held for the identification of the present applicant. Nothing is recovered from the present applicant. The CCTV footage also nowhere shows the presence of the present applicant at the spot of incidence. Since the date of arrest, the applicant is behind bars, and there is no sufficient material to connect him with the alleged offence. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that, during the investigation, the investigating officer has collected the CCTV footage, which shows that the vehicle was intercepted by another vehicle and the involvement of the present applicant is revealed. She further submitted that the crime branch has taken custody of the co-accused, and during interrogation with him, the name of the present applicant was revealed. Thus, considering that the applicant is not a resident of

Maharashtra, there is every apprehension of absconding, and therefore, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers. The FIR was registered against the unknown person. During the investigation, the involvement of the complainant as an accused is revealed to the investigating agency. As far as the present applicant is concerned, whose involvement, according to the prosecution, is on the basis of CCTV footage. On perusal of the CCTV footage, the applicant was nowhere seen in the said CCTV footage. Besides the CCTV footage, there is no other material to connect the present applicant with the alleged offence. Though the investigating agency relied upon the CDR Report but, mere CDR Reports, are not sufficient to connect the present applicant with the alleged offence.

6. In the light of the above major evidence, and now the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. He shall be released on bail by imposing certain conditions. Accordingly, I proceed to pass the following order;

- a) Criminal application is allowed.
- b) The applicant- Dineshkumar s/o Parmeshwarlal Bhudariya shall be released on bail, in connection with Crime No. 514/2023 registered with Lakadganj Police Station, Nagpur for the offence punishable under Sections 120(B), 397

read with Section 34 of the Indian Penal Code, 1860, on executing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c) The applicant shall attend the concerned police station twice in a month on 1st and 15 of every month, and the investigating officer shall record his presence.
- d) The applicant shall not leave India without prior permission of the District Court, Nagpur.
- e) The applicant shall surrender his passport, if he is having before the investigating officer.
- f) 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.]