



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

CRIMINAL APPLICATION (BA) NO.520 OF 2023

Ramesh Mithu Rathod

Vs.

State of Maharashtra, Through Police Station Mehkar, Buldhana

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

Court's or Judge's orders

Mr. A. R. Fule, Advocate for applicant.

Mr. A. B. Badar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13 /03/2024

1. The applicant came to be arrested on 03.01.2023 in connection with Crime No.3/2023 registered with Police Station, Mehkar, District Buldhana for the offence punishable under Sections 420 and 406 read with Section 34 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by one Subhash Bansilal Kabra. The recitals of the FIR show that the informant is dealing with the business of food grains under the name and styled as BSK Market Antri Deshmukh Road and he is also supplier of food grain to the Company and for the purposes of transportation, he engaged the services of Bharat Transport run by Vijay Jagdish Purohit. On 22.12.2022 at around 7 p.m., he had to transport the food grains to one Viki's India Limited, Shrirampur

and therefore, he had booked the consignment with the Bharat Transport and accordingly, the truck bearing No. MH-23-W-0307, wherein the Soybean of 201 quintel worth of Rs.10,80,409/- was loaded. After loading the same, the truck proceeded at about 11.30 a.m. on 22.12.2022 from the shop of the complainant. It was expected that it would reach at Shrirampur on 24.12.2022, but the said truck did not reach at the destination. Consequently, he made a phone call to the driver of the truck but his mobile phone was out of range, therefore he enquired with the concerned company to whom the said shop was supposed to be delivered and it revealed to him that the truck did not reach to the Shrirampur, but the truck was found at the petrol pump of one V. P. Mane bearing registration No. MH-23-W-0307. On investigation, it reveals that the said truck belongs to Kavita Mane. The complainant therefore stated that by way of giving forged and false documents of the truck, the driver namely, Shivaji Rathod and Ganesh Rathod in collusion with each other have stolen stock of the complainant by way of misleading the complainant. During the investigation, the name of the present applicant is revealed.

3. Learned Counsel for the applicant submitted that the applicant is behind bar since the date of his arrest. As far as his involvement is concerned, there is no direct material to connect him with the alleged offence. Moreover, he is a

handicapped person. Now, the investigation is completed and charge-sheet is filed, his further incarceration is not required. He also raised the ground that though the charge is framed on 31.03.2023 however, the trial did not commence and there is an indefinite delay for conducting the trial. He further submitted the applicant cannot be put behind bar for an indefinite period. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application on the ground that it is the typical *modus operandi* adopted by the present applicant along with the other co-accused, whereby they have approached the Bharat Transport Company for providing the goods for transportation by way of deploying their truck in the said transport business. It further revealed that the present applicant and other co-accused have furnished forged and fabricated documents showing that they are the owners of the truck. The actual registration number of the truck which came to be furnished and it revealed that it is in the name of one Kavita Sachin Mane. The investigation papers further reveals that the present applicant and the co-accused have used the registration number of the tanker and pertaining to their own truck and mislead the transport Company and misappropriated 201 quintal Soybean from the shop of the complainant. Thus, there is *prima facie* material against the present applicant. He further

submitted that similar type of the offences are registered against the present applicant bearing Crime Nos.190/2014, 141/2014 and 149/2016. He submitted that considering the *modus operandi* of the present applicant, if he released on bail, there is every possibility of his involvement in the similar type of the crime in future. He further submitted that now charge is already framed and trial would be commenced at any point. In view of that, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. The alleged vehicle is seized from the custody of the present applicant. The seizure panchnama is drawn during the investigation. During the investigation, the statement of various witnesses are also recorded which shows that the present applicant has not only used the said truck by forging the document, but the driving licence of the driver was also forged and it was prepared in the name of Sachin Bapurao Mane and photo of one Shivaji Rathod was affixed on the said licence. The Soybean which was loaded in the truck bearing No. MH-23-W-0307 was again loaded to the another vehicle and the entire stock was misappropriated. The statement of Shivaji Triambak Rathod i.e. co-accused also shows the involvement of the present applicant. The other statements of the witnesses also show the *modus operandi* of the

present applicant. With a similar *modus operandi*, he has committed the offences in the year 2014 and three crimes are registered against him under Sections 420, 406, 468 and 471 read with Section 34 of the Indian Penal Code.

6. Considering the criminal antecedents against the present applicant and considering the fact that now charge is already framed and trial can be commenced at any point of time, as well as the *prima facie* case against the present applicant, the bail application deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)