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

CRIMINAL APPLICATION (BA) NO. 1166/2023

Mohd. Irfhan Hussain Ahmed Sheikh 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. D.N. Mehta, counsel for the applicant.
Mrs. M.A.Barbde, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/02/2024.

1. The present application is preferred by the applicant for grant of bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime 116/2022 registered with Police Station Lakadganj for the offences punishable under Sections 409, 406, 420, 468, 471 read with Section 34 of the Indian Penal Code, 1860. The applicant came to be arrested on 24/04/2023.

2. The accusation against the present applicant is on the basis of report lodged by Mohammad Faizan Mohammad Khuda Baksh, on an allegation that the present applicant has obtained the loan in his name by using the Aadhar Card, Pan Card, and other relevant documents and misused the same. On the basis of said report, the police have registered the crime against the present applicant.

3. Learned counsel Mr. D.N. Mehta for the applicant submitted that except the statement of the

informant, and one statement of the account, there is no material on record to show that, the present applicant has obtained the said documents from the informant and obtained the loan from him. Now, the investigation is completed and charge sheet is also filed, the applicant's custody was obtained by the investigating agency as he was arrested in another crime. Considering the material collected during the investigation, further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed the present application on the ground that the present applicant has not only obtained the documents of the informant but also obtained the loan in his name and misused the said loan amount. There is a prima-facie material against the present applicant, and there are criminal antecedents against the present applicant of a similar nature. In view of that, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, there are criminal antecedents against the present applicant and various crimes are registered against him, as far as the present crime is concerned, the FIR is lodged on the basis of report lodged by Mohammad Faizan Mohammad Khuda Baksh who alleged that the present applicant has obtained Aadhar Card and Pan Card from him, and thereafter obtained the loan, he came to know about the

same when he approached the Bank for obtaining the loan. During the investigation, though various statements are recorded by the investigating officer, the investigating officer has not carried out the Test Identification Parade to ascertain the facts of the informant. The investigating agency also placed reliance on the bank account statement, wherein it shows that, some amount was transferred in the account of the present applicant.

6. Considering the entire material collected by the investigating agency and now, the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. The offence is in the nature of the economic offence. As observed by the Hon'ble Apex Court in the case of ***Satender Kumar Antil Versus Central Bureau Of Investigation & Anr*** reported in ***2022 LiveLaw (SC) 577,*** wherein by referring the judgment in the case of ***P. Chidambaram vs Directorate Of Enforcement*** reported in **(2020) 13 SCC 791,** it is held that we are conscious of the fact that accused charged with economic offences of huge magnitude. We are also conscious of the fact that the offences alleged it proved may jeopardy the economy of the country. At the same time, we cannot lose sight of the fact that the investigating agency has already completed the investigation and the charge-sheet is already filed before the Special Judge, therefore, the presence in the custody may not be necessary for further investigation and accused was released on bail.

7. Similarly, in the present case also, the material on record shows that the applicant is involved in the offence which shows in the nature of economic offence, but now, charge-sheet is filed, further incarceration of the present applicant is not required. Merely because, there are criminal antecedents against the present applicant, his liberty cannot be curtailed. In view of that, application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

a) The criminal application is **allowed.**

b) The applicant – Mohd. Irfhan Hussain Ahmed Sheikh, is released on bail, in connection with Crime 116/2022 registered with Police Station Lakadganj for the offences punishable under Sections 409, 406, 420, 468, 471 read with Section 34 of the Indian Penal Code, 1860, on furnishing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.

c) The applicant shall attend Lakadganj Police Station, Nagpur twice in a month i.e. on 1st and 15th day of every month between 10.00 a.m. to 12.00 noon and the investigating officer shall record his presence.

d) The applicant shall not leave the jurisdiction of the Nagpur City without prior permission of the Court.

e) The applicant shall furnish his cellphone number (s) and address with address proof before the investigating officer along with the names of his two relatives and their address with the address proof.

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.]**

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