



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

CRIMINAL APPLICATION (BA) NO. 1190 OF 2023

Pradip s/o Hemraj Sarswat

Vs.

State of Maharashtra, Through Police Station Officer, Lakadganj, Nagpur
District Nagpur

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for applicant.

Mr. A. G. Mate, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 02/02/2024

1. The applicant came to be arrested on 03.08.2023 in connection with Crime No.514/2023 registered with Police Station Lakadganj, Nagpur for the offence punishable under Sections 120-B, 397 read with Section 34 of the Indian Penal Code.

2. The accusation is made against the present applicant, during the investigation, as per the prosecution case, the present applicant is one of the conspirators. The FIR is lodged at the behest of the present applicant alleging that on 01.08.2023 the complainant i.e. the applicant collected the cash of Rs.34,50,000/- from Sonu Anmol, and thereafter the Manager Anil and other Virambhai were asked to keep this cash at Buthada chamber in locker. The applicant asked Pralhad and Uttam to bring their cash at Sonu Anmol's shop and all of

them together separated the cash in three different bags. The total cash was Rs.1 Crore 15 Lakhs. Thereafter, the bag was kept in the dikki of the white Activa and other two bags on the front portion of the two wheeler. It is alleged that while they proceeding towards the Bhutada chamber, two people restrained them and snatched the key of the vehicle. They snatched the phone of the present applicant. The companion of the present applicant Pralhad tried to run away, but these two people caught him and also snatched his mobile phone, assaulted him and snatched the cash amount and ran away from the spot of incident. On the basis of said report, police have registered the crime against the other co-accused. During the investigation, the involvement of the present is revealed and therefore, he arraigned an accused.

3. Learned Counsel Mr. Sirpurkar, for the applicant submitted that except the CDR, no other material is collected to show the involvement of the present applicant and the alleged offence. The presence of the applicant was not noted. Now, investigation is completed and charge-sheet is filed and further incarceration of the present applicant is not required. Even the amount is not seized from the other co-accused. Thus, merely on the suspicion the present applicant is implicated in the alleged offence. In view of that, he be released on bail.

4. Learned APP strongly opposed the application on the ground that during the investigation the CDRs are collected which shows the communication of the present applicant with the other co-accused. He further submitted that WhatsApp chat also collected during the investigation, which shows that the applicant has communicated prior to the incident with the co-accused Nemaram Saran. Thus, the involvement of the present applicant revealed from this part of the investigation. If the applicant is released on bail, he will tamper with the prosecution evidence and prays for rejection of the application.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, no cash is recovered either from the present applicant or other co-accused. As per the allegation of the prosecution, the present applicant is involved in the conspiracy and to show the involvement the prosecution relied upon the CDR report which shows that the applicant had communicated prior to 15 days with the co-accused. The WhatsApp chat with the co-accused is also placed on record which shows that the present applicant has given a call to the co-accused Nemaram Saran. Except this material, there is no other material collected during the investigation to connect the present applicant with the alleged offence. Admittedly, as far as the criminal conspiracy part is

concerned, which always has in secrecy and no direct evidence is available to show the involvement of the accused persons in the conspiracy. However, some more material is required to show the involvement of the present applicant in respect of the conspiracy. Merely on the basis of the phone call, it is difficult to ascertain the involvement of the present applicant in the alleged evidence. Now, investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required and considering his role, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Pradip s/o Hemraj Sarswat** be released on bail in connection with Crime No.514/2023 registered with Police Station Lakadganj, Nagpur for the offence punishable under Sections 120-B and 397 read with Section 34 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned Police Station twice in a month on 1st and 15th of every month and the Investigating Officer shall record his presence.

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

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)