

CNR No. MHNS010002142022

Order below Exh.1 in Cri. Bail Application No.75/2022.

(Prabhubhai Gulshanbhai Solonki Vs. State)

Present application is moved by the applicant-accused Prabhubhai Gulshanbhai Solonki @ Kalpesh Prajapati @ Ramesh for releasing on bail under section 439 of Cr.P.C., in connection with CR No.98/2014 registered with Igatpuri Police Station for the offence U/sec. 420 r.w.s.34 of Indian Penal Code, (hereinafter referred to as “the IPC” for short)

2. It is stated in the application that FIR was registered against unknown persons in respect of the grab of selling 10 kg worth Rs.24 lacs and allegations are that applicant-accused has taken Rs.25 lacs from the first informant and instead of giving gold coins to her cheated her alongwith co-accused by giving fake gold coins and thus, said crime was registered on 27.11.2014 under section 420 r.w.s.34 of IPC. The learned JMFC, Igatpuri rejected bail application moved by the present applicant-accused under section 437 of Code of Criminal Procedure (hereinafter referred to as “the Cr.P.C.” for short). It is stated that the offence is triable by the JMFC and not punishable with death or life imprisonment but upto 7 years imprisonment. Applicant-accused has been arrested on 1.12.2021 and remanded for PCR. Police have not recovered any article at the hands of present applicant-accused. Applicant-accused has undertaking that he will not tamper or hamper the prosecution witnesses and shall not threaten them and will ready to attend the police station as well as in the court as and when required by the court.

3. I.O. appeared and submitted his report stating that FIR was lodged by Smt. Marshan Marshal Rozario R/o. Palghar District against accused Ravi Prajapati, his brother and mother. The alleged incident took place between 18.11.2014 to 22.11.2014 at Dalviwadi

and Igatpuri village. Therefore, the crime was registered as the first informant was cheated for the amount of Rs.24 lacs pretending to tender her gold coin by handing over her fake gold coins. The police have initially conducted the investigation , however, submitted 'A' summary on 2.6.2018 subsequently the accused was traced out and on 26.4.2021 investigation was again began. The present applicant-accused was initially arrested in CR 31/2020 for the offence U/s.420 r.w.s.34 of IPC, however, he was absconded during the course of investigation consequently he was transferred from a crime pending with Alibaug, Raigad and taken custody in the present crime. It is also stated that accused has used similar type of modus operandi to cheat various persons in Maharashtra state of other district and therefore, application may be rejected.

4. Heard, both the parties. The learned counsel Shri. R.S. Shinde stated that earlier the police have arrested three accused persons in present crime and finally submitted report under section 169 of Cr.P.C. as no connection was found with the present crime. Present applicant-accused was granted bail in respect of crime in Raigad District. He also submitted the copy of agreement on record, which refers to transaction in respect of accused and other persons while he was in police custody and allegedly absconded from the police custody. He submitted that accused has no way connected with the alleged crime. His description is also not match with the description in the FIR. More so, he submitted that accused is ready to abide the conditions laid down by this court and ready to furnish surety as per direction of the court. He specifically submitted that offence is triable by the court of JMFC and therefore, there is no need to keep the accused in jail as it will take time to investigate the crime and to file charge-sheet. Hence, prayed to allow the application.

5. The learned APP objected the application stating that the accused is habitual one. He has cheated several persons during this period with same modus operandi and several crimes are registered against him. Therefore, he prayed to reject the bail application.

6. On perusal of the entire record, it appears that crime was registered in the year 2014. The accused could not be traced out. Therefore, police have filed 'A' summary. Recently police have again open the file and arrested the present applicant-accused and found link of the accused with the present crime. T.I. Parde of the accused is to be conducted. Investigation is in progress. Considering the fact that, accused has cheated several persons and various crimes are registered against him with same modus operandi, therefore, I am not inclined to allow bail application. Hence, I pass following order.

ORDER

- 1) Bail application No.75/2022 is hereby rejected.
- 2) Inform concerned police station.

Date. 27.01.2022

(M.A. Shinde)
Additional Sessions Judge-8,
Nashik.