

*CNR MHNS010035442020
CR. No. I-88/2020, Cyber
Police Station, Nashik
City, District : Nashik
registered under section
420 read with section 34
of the IPC along with
section 66 (c) and (d) of
the Information
Technology Act, 2020.*

Order below Exh.1 in Cri. Bail Application No.1233/2020.
{ Abhishekh Ramesh Jain and another Vs. State }

The bail application is filed under section 439 of the Code of Criminal Procedure, 1973 (fort short ' the Cr.P.C. ') by the applicants-accused Abhishekh Ramesh Jain and Nitin Prabhakar Pawar, arrested on 03.09.2020 in connection with C.R. No. I-88/2020, dated 03.09.2020 for the offence punishable under section 402 read with section 34 of the Indian Penal Code (for short 'the IPC) along with section 66 (c) and (d) of the Information Technology Act, 2000, filed with Cyber Police Station, Nashik city, District : Nashik, They are in magisterial custody remand since 15.09.2020.

2. The application has been preferred on the **grounds** that the applicants-accused are falsely implicated in this crime. They have not cheated anybody. There is no evidence against them. The punishment for the offence is upto seven years. Due to COVID-19 Pandemic situation, they are entitled for bail. Their family is dependent on them. They have no criminal antecedents. They would co-operate with the investigating agency. Investigation is completed. They are ready to abide by any condition imposed by this court. Hence, bail may be granted to the applicants-accused.

3. The learned APP V.R. Gaikwad has filed say at Exh. 06 and he has opposed the bail application on the grounds that the absconding accused Manish Jain has transferred an amount of Rs. 23,75,000/- in the Bank account of accused No. 1 Abhishekh Jain. If the applicants-accused are released on bail, they would flee from justice and would destroy the evidence. Accused No. 2 Nitin Pawar had distributed amount to his colleagues at Kalyan, New Mumbai, Kharghar, Airoli. The offence has been committed in furtherance of their common intention. Thorough investigation is yet to be done. Hence, bail may not be granted.

4. Heard both the sides. Perused the case diary. Learned APP Mr. Gaikwad has submitted along with the line of his say at Exh. 6. Learned Adv. Mr. J. S. Shaikh has submitted that there is no allegation against the applicants-accused in the FIR. Offence under section 420 is not attracted. There are no criminal antecedents. Physical custody is not required. Considering the COVID-19 Pandemic situation, bail may be granted to the applicants-accused.

5. Amidst the above rival contentions, it is to be decided as to whether the applicants-accused has made out a genuine case for their enlargement on bail.

6. Briefly stated, as per FIR dated – 03.09.2020, a Cyber cheating has been registered. Informant Arjun Tile on 21.07.2020 came in contact with Grace Jackson on face-book. Chatting and business talks were held between them for the medicine of Health-care Pharmaceutical company. An amount of Rs. 6,27,000/- was transferred through RTGS in Bank account of Kotak Mahindra Bank.

Thereafter, for 47 more packets an amount of Rs. 98,23,000/- was demanded from the informant. Accordingly, on 25.08.2020 he has transferred Rs. 25,00,000/- through RTGS in a Bank account of Central Bank of India, Udaipur. But the informant has not received any samples of medicines. Therefore, he lodged the FIR.

7. On going through the case diary, it reveals that during investigation that out of the amount of Rs. 6,27,000/-, an amount of Rs. 5,95,000/- has been transferred on 18.08.2020 in the account of applicant-accused No.1. On 25.08.2020, an amount of Rs. 20,00,000/- has been transferred in the account of applicant-accused No.1. On 26.08.2020 an amount of Rs. 3,75,000/- has been transferred in the Bank account of applicant-accused No.1. Therefore, applicant-accused No. 1 was arrested. From his custodial interrogation, it revealed that he has given the amount to Nitin Pawar, applicant-accused No.2. Applicant-accused No. 2 has distributed the amount to further persons as per the say of one Deepak Sathiya.

8. Considering the facts revealed in the investigation, it transpires that huge amount has been transferred to the Bank account of applicant-accused No.1 and he has told that the amount was also given to applicant-accused No.2. The said amount is deposited by the informant as he was told to do it. Therefore, the role of the applicant-accused No. 1 and 2 can be seen in this crime. They are the direct beneficiaries of the amount involved.

9. Considering the stage of investigation, thorough and detail investigation of the crime is necessary to be done. The nature

of accusation is complex and technical. The persons involved in the cyber crime are necessary to be dig out. The possibility of further racket or crime syndicate cannot be ruled out.

10. During investigation 12 debit cards have been seized from applicant-accused No. 1 as well as 9 cheque books, two visiting cards and one Rubber stamp has also been seized from applicant-accused No.1. So also two debit cards have been seized from applicant-accused No.2.

11. Accused No. 3 Kishanlal Prabhu Teli has been arrested from Bhilwada, Rajasthan on 09.09.2020. The Bank statements of applicant-accused No. 1 are yet to be searched in order to find out the other beneficiaries of the crime. So also, the beneficiaries at the hands of applicant-accused No. 2 are to be searched at Kalyan, New Mumbai and Kharghar. Therefore, investigation is yet incomplete. The applicants-accused if released on bail, they may tamper with the prosecution evidence or flee from justice.

12. Thus, to sum up, entire discussion huge amount of cheating of Rs. 31,27,000/- has been involved in this crime. The investigation is yet incomplete. Detail and thorough investigation is necessary to be done, considering the nature of accusation and manner of crime. The possibility of involvement of a racket or crime syndicate cannot be ruled out at this stage. Therefore, if the applicants-accused are released on bail, at this stage, it would have adverse impact on investigation. In such circumstances, the applicants-accused are not entitled to be released on bail, at this stage. Resultantly, I proceed to pass following order.

ORDER

The application filed by applicants-accused Abhisekh Ramesh Jain and Nitin Prabhakar Pawar, is hereby rejected.

(Dictated and pronounced in open court)

24.09.2020.

(S.P.Naik-Nimbalkar)
Additional Sessions Judge,
Nashik.