

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 306 OF 2014

MR. FAIYAZ ISAQ MULLANI, PRESENTLY

IN JUDICIAL CUSTODY, SUB JAIL

SADA, THR. MR. MENINO J.

RODRIGUES.

... Applicant

Versus

STATE THROUGH P.P., ACB, CBI AND

ANR.

... Respondents

Mr. Arun Bras De Sa, Advocate for the applicant.

Mr. Joseph Vaz, Special Public Prosecutor for the respondents.

Coram:- U. V. BAKRE, J.

Date:- 12th January, 2015.

ORAL ORDER:

Heard Mr. Bras De Sa, learned Counsel for the applicant and Mr. Vaz, learned Special Public Prosecutor for the respondents.

2. The applicant, who has been arrested on 06/12/2014 in Crime No. RC7(A)/2014/CBI/ACB/GOA registered for offence punishable under Section 420 of Indian Penal Code ('I.P.C.', for short) and Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act,

1988 ('P. C. Act', for short), has filed the present application for bail.

3. A complaint has been filed by Shri Sachin Shetgaonkar against the applicant alleging as follows :

The applicant by abusing his official position as Senior Commercial Clerk, Railway Parcel Office, Vasco-da-Gama, Goa had demanded and collected ₹ 15,000/- from the complainant on 08/11/2014, under the pretext of collecting deposit to clear the parcel sent through Railways from Delhi for hotel at Morjim, Goa, since the original Railway parcel bill was not produced for releasing the parcels. On insisting for the receipt, the applicant further demanded at least ₹ 500/- as bribe for the timely help given to Sachin and thereafter issued a hand written signed receipt for having received ₹ 15,000/- on a white paper with the office seal. However, after receiving the original receipt and showing the same to the applicant, the applicant did not refund the said deposit and cheated the complainant. Upon the above complaint, the said crime was registered.

4. The applicant has stated that he has put in 22 years of service in various States with the Railways and prior to the present incident there has been no complaint or case against him. He has stated that the amount of ₹ 15,000/- was deposited by the

complainant only as security since the complainant had not received the original receipt which was dispatched by post. He stated that after his arrest he was remanded to five days Police Custody and since 12/12/2014 he has been in judicial custody. According to him, all the incriminating materials, documents and other valuables have already been seized and attached by the police and his detention in judicial custody will serve no purpose. He also stated that the material does not spell about the ingredients of the offence punishable under I.P.C. as well as P. C. Act. He stated that his wife is in Mumbai to take care of his father-in-law who has been diagnosed with terminal cancer. His elder son is studying in Class X, and in the absence of the applicant the educational needs of the son are in jeopardy.

5. The Investigating Officer has filed a detailed reply thereby resisting the application.

6. Mr. Bras De Sa, learned Counsel submitted that since the investigation is now completed, no purpose will be served by detaining the applicant in judicial custody. He further submitted that there is no question or possibility of the applicant tampering with the evidence and that even otherwise appropriate conditions can be put. He urged that insofar as the alleged involvement of the

applicant in other cases, is concerned, no F.I.R. has been registered and therefore the question of detaining the applicant in the present case for investigation of some other cases, would not be appropriate. He therefore prayed that the applicant be released on bail.

7. On the other hand, Mr. Vaz, learned Special Public Prosecutor submitted that there is strong prima facie evidence against the applicant regarding his involvement in the present case and the investigation conducted revealed the involvement of the applicant in various other offences like preparing forged documents like fake Adhar Card, Election ID Card, Insurance certificates, etc., and using them as genuine and availing loan from different Banks/Societies. He submitted that the investigation regarding the said other offences are at a preliminary stage and if the applicant is released on bail that would hamper the investigation of the said cases.

8. I have gone through the material on record in the light of the arguments advanced by the learned Counsel.

9. The applicant was arrested on 06/12/2014 and it is seen that all the documents pertaining to the present case have been attached during the raid conducted at the residence of the

applicant. It may be that during the said raid, other incriminating material showing involvement of the applicant in other offences, is revealed. However, no F.I.R. has been registered against the applicant with regard to the other offences. The applicant can be taken into custody if the said F.I.R.s are registered. I am of the view that no purpose will be served by detaining the applicant in custody, since there is no fear that the applicant would flee from justice. Appropriate conditions can always be imposed on the applicant, to take care of the apprehensions of the respondents.

10. In the result, the application is allowed. The applicant shall be released on bail in Crime No. RC7(A)/2014/CBI/ACB/GOA, upon execution of personal bond in the sum of ₹ 30,000/-(Rupees Thirty Thousand Only) with one solvent surety in the like amount, under the following conditions:

- (a) The applicant shall attend the office of CBI, ACB, Goa on every Monday from 11.00 a.m. to 1.00 p.m., and co-operate with the investigation, till he is required by the investigating officer to do so or until further orders, whichever is earlier.
- (b) The applicant shall not, directly or indirectly, make an inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.

(c) The applicant shall surrender his passport, if he has one, before the Investigating Officer within a period of one week from today.

(d) The applicant shall not leave India without any previous permission of the C.B.I. Court.

(e) Bail bonds shall be executed before and to the satisfaction of C.B.I. Court.

11. Applicant stands disposed of, accordingly.

U. V. BAKRE, J.

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