

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
APPLICATION NO.613 OF 2014

Sunil Manakat Mondal ...Applicant
Vs
The State of Maharashtra & Anr. ...Respondents

Ms Racheeta R. Dhuru for the Applicant
Mrs. A.A. Mane, APP, for the Respondent No.1 -State.

CORAM: P.D. KODE, J.

DATED: JANUARY 29, 2015.

P.C.:

By this application the Applicant /original complainant, upon whose complaint Crime No.2 of 2013 has been registered as per the directions of Trial Court at Wadala TT Police Station for the offences punishable under sections 420, 467, 468, 471 of the IPC, has prayed for cancellation of pre-arrest bail granted to the Respondent No.2 by learned Additional Sessions Judge, Greater Bombay vide order dated 24.7.2014.

2. Ms Dhuru, learned counsel for the Applicant submitted that it is the case of the Applicant that he has paid an amount of Rs.17,50,000/-(Rupees Seventeen Lakhs Fifty Thousand) for the purchase of flat in MHADA building. It is his case that the

Respondent No.2 duped him and had neither given him flat as promised nor returned the entire amount. It is submitted that the Sessions Court miserably failed to take into consideration that the entire amount obtained from the Applicant has not been returned back. It is thus, submitted that custodial interrogation of the Applicant would be necessary for recovery of said amount and as such the grant of pre-arrest bail has hampered the investigation in the said crime. It is submitted that hence the pre-arrest bail granted to the Respondent No.2 be cancelled.

3. Careful perusal of the order reveals that while accepting the prayer for pre-arrest bail all the facets connected with the offence in question were taken into consideration by the learned Additional Sessions Judge. It reveals that the Sessions Court has duly taken into consideration the fact of Rs.4,00,000/- (Rupees Four Lakhs) being repaid to the Applicant by way of a cheque. The order also reveals that the Sessions Court has duly taken into consideration the contention of the Respondent that the remaining amount being paid by way of cash in view of the Applicant there after having insisted for returning the money by paying the cash amount. In the said circumstances Court of Sessions has come to the conclusion that custodial interrogation of the Applicant is not necessary and has

acceded with the prayer for pre-arrest bail.

4. Thus perusal of order clearly reveals that all the facets were duly taken into consideration by the Court of Sessions and as such no fault can be found with the said order. Apart from it is settled legal position that cancellation of bail is a drastic remedy and the parameters of granting bail and parameters of cancellation of bail are altogether different. The Applicant has not made out a case of the Respondent No.2 having misused the liberty granted to him by the Court. Having regard to it, it is difficult to accede for the prayer of cancellation of bail.

5. In the circumstances Application is rejected. However, since it is brought to the notice that charge-sheet has been filed hearing of criminal case arising out of C.R. No.2 of 2013 registered with Wadala T.T. Police Station is hereby expedited and the Trial Court is directed to make best endeavour to commence and complete the said trial as early as possible.

(P.D. KODE, J.)