

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2197 OF 2015

Rajiv Suryakant Mehta	..Applicant
-Versus-	
State of Maharashtra	..Respondent

Mr. Subhash Jha, i/b. Law Global for applicant
Ms. P.P.Shinde, APP for State
Mr. Sayyed, P.I., D.B.Marg Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 27th November 2015.

P.C.

1] This is an application for regular bail by the applicant in C.R.No.115 of 2015 registered with D.B.Marg police station under section 409, 420 read with 34 IPC.

2] On the basis of a complaint registered by Bhavesh Shah, the criminal law was set into motion. The applicant was arrested on 2nd July 2015 and since then he is behind bars.

3] Heard Mr. Subhash Jha, learned counsel for the applicant and

the learned APP. Learned Counsel for the applicant submits that the same complainant Bhavesh Shah had filed three different F.I.Rs. within a span of 13 days with three different police stations alleging the same or similar nature of crime. In the present case, it is the case of the complainant that the applicant after executing "jangad" accepted the diamond ornaments worth Rs.1,50,03,404/-. The applicant also executed tax invoice in favour of the complainant. The applicant did not pay the amount to the complainant and also did not return the said ornaments. The record further discloses that the applicant gave a cheque to the complainant of Rs.25 lakhs which was found to be a forged negotiable instrument. Taking into consideration the said aspects the trial court by its order dated 30th October 2015 rejected the application of the applicant for regular bail.

4] Mr.Subhash Jha learned Counsel submitted that the present complainant Mr. Bhavesh Shah has also instituted crimes bearing C.R.No.162 of 2015 with Gamdevi Police Station and C.R.No.2841 of 2015 with L.T. Marg Police Station. Learned Counsel drew my attention to the order dated 30th March 2015 passed by the Division

Bench of this Court thereby it was directed to transfer all the three crimes mentioned hereinabove to D.B.Marg Police Station for investigation and the Investigating Officer of C.R.No.115 of 2015 attached to D.B.Marg Police Station was directed to investigate the crimes. Mr. Jha contended that as far as C.R.No.162 of 2015 and 284 of 2015 are concerned, these two C.Rs. are subsequent in point of time than the present C.R. He further contended that in both the said C.Rs. the trial court was pleased to release the applicant on bail by its orders dated 20th August 2015 and 9th September 2015 respectively. He further pointed out that while releasing the applicant on bail, the trial court recorded a prima facie finding that the transactions involved therein are of civil in nature. After taking into consideration the said aspect, the trial court was pleased to release the applicant on bail in the said two cases. Mr. Jha further contended that the same court has now rejected the application of the applicant in C.R.No.115 of 2015 which involves the same and similar facts and the complainant therein. He points out that the only aspect which goes against his client is that it has been held by the trial court that the present applicant gave a cheque of Rs.25 lakhs to the complainant which was found to be a forged negotiable

instrument. Mr.Jha further contended that his client is suffering from an ailment for which he had to undergo medical treatment at superspeciality hospital and has also got 100 stiches near the area between ear and neck. In these circumstances, he prays for release of applicant on bail.

5] Learned APP vehemently opposed the application and submitted that the lodgement of various crimes against the applicant even though by the same complainant shows his inclination towards criminality. She submitted that the cheque given by the applicant to complainant of Rs.25 lakhs was found to be forged and, therefore, sections 467 has been applied to the present crime. She submitted that if the applicant is released on bail, he may abscond and may not be available for trial.

6] I have perused the entire record placed before me. It is a fact that the complainant, Bhavesh Shah has lodged three separate and distinct crimes against the applicant with three different police station within a span of 13 days. It is also important to note that two crimes viz., C.R.No.115 of 2015 and the Crime C.R.No.162 of 2015 were registered on the same day i.e. 27th May 2015. It appears that

the third C.R.No.284 of 2015 was registered with L.T. Marg police Station on 5th August 2015. In all the three C.Rs. the period of transaction was preceding approximately one year prior to its lodgement. It is fact on record that the applicant has been ordered to be released on bail in the two subsequent C.Rs. viz., C.R.No.162 of 2015 and C.R.No.284 of 2015 by the trial court as stated hereinabove. The learned Trial Court, while releasing the applicant on bail, has recorded a categorical prima facie finding that the transactions involved therein were of civil nature. A perusal of the F.I.R. in the present crime also discloses that the transaction involved in the present crime is prima facie of civil nature. The apprehension that if the applicant is released on bail, he may flee from the ends of justice, can be taken care of by imposing stringent conditions on the applicant. Apart from the fact that prima facie the transaction involved in the present crime appears to be of civil nature, the documents on record also show that the applicant was diagnosed with Cystic Lesion of his right side of the face and had to undergo medical treatment at various hospitals. The medical treatment also involved surgery for removal of the said cyst.

7] In view of the above, I am inclined to release the applicant on

bail on the following conditions. Hence, following order:-

- (i) The applicant is released on bail on his furnishing P.R.Bond of Rs.2 lakhs with one or two solvent sureties in the like amount.
- (ii) The applicant shall attend I.O. on every Monday between 10.00 am and 12.00 noon.
- (iii) It is needless to mention that the applicant shall not tamper with and/or influence the prosecution witnesses;
- (iv) The applicant to deposit his passport, if he so possesses, with the D.B.Marg Police Station within one week from his release.
- (v) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J)