

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.268 OF 2016

Kapil Devprakash Rajput & Ors ... **Applicants**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.R.B.Raghuvanshi with Prabhat Pandey i/b. Rajesh More,
Advocate for the Applicants.

Mr.S.H.Yadav, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 8th JUNE 2016.

P.C.

1. Heard the learned counsel for the applicant, who has strenuously submitted that in spite of this Court granting anticipatory bail to other co-accused on their furnishing a personal bond in the sum of Rs.20,000/-, the learned Sessions Judge while granting bail to the applicant imposed stringent conditions of executing P.B. and S.B. to the extent of Rs.1,00,000/- and is further directed to furnish bank guaranty of Rs.One Crore. It is, therefore, prayed that said stringent conditions may be modified.

2. The learned Additional Public Prosecutor seeks time to obtain instructions. However, I find no reason for grant of time for obtaining any instructions on above aspect.

3. Perused the F.I.R., wherefrom, it reveals that same came to be registered against present applicants, who are at Accused Nos.1,2 and 4 respectively, while accused No.3-Devprakash is granted anticipatory bail by this Court, which is further stated to be confirmed.

4. This application is for modification of order passed by the learned Additional Sessions Judge, Thane imposing stringent conditions upon the applicant to furnish P.B. and S.B. and to furnish bank guaranty, as aforesaid.

5. Considering the case of prosecution, it appears that applicants are involved in Crime No.I-76 of 2016 registered with Washi Police Station, Navi Mumbai for the offences punishable under Sections 420, 406, 465, 467 read with 34 of the Indian Penal Code, alleging therein that the applicants, who are *inter se* related and Directors of Dwarka Group of Companies had borrowed an amount to the extent of Rs.9,15,25,000/- for the purchase of vehicle from the bank, which, amount is, however, not repaid and the officials of the bank since found that the vehicle, in fact, were not purchased, lodged the FIR on the basis of which the above offence is registered.

6. This Court while considering Anticipatory Bail Application No.578 of 2016 filed by father of present applicant has

considered various aspects of the case and has granted interim prayer to said applicant, which was subsequently confirmed.

Perused the impugned order, wherein the learned Judge considered that the conduct of applicants is serious against the Public Sector Bank, who has committed cheating on borrowing funds from the bank and having considered the said fact imposed above stated condition. It is material to note that Anticipatory Bail Application No.578 of 2016, which was allowed by this Court on 01/04/2016 imposing condition upon the applicant to furnish P.R. bond of Rs.20,000/- with one or two solvent surety in the like amount with other condition to attend the Investigating Officer etc. The learned counsel for the applicant makes a statement at Bar that said order was brought to the notice of the learned Additional Sessions Judge in spite of that above said conditions are imposed.

7. On perusal of consent terms, entered into by the applicants with the Punjab National Bank, it reveals that bank is always entitled to seize the vehicle involved in the crime in the event of accused fails to repay the amount to the bank.

8. In the circumstances, it is noted that applicants though are directed to be released on bail, could not availed of said order for want of their satisfying the stringent conditions.

9. Prima facie, I do not find any reason for imposing such stringent conditions. In that view of the matter conditions imposed by the learned District Judge 5 and Additional Sessions Judge, Thane while deciding Bail Application No.831 of 2016 at Sr.No.2 and 4 only are modified to the following extent :

- (i) Applicants shall be released on bail on their executing P.B. and S.B. to the extent of Rs.50,000/- each with one or two surety each in the like amount. Applicants are further granted liberty to furnish cash security to the extent of Rs.50,000/- each with one or two sureties in the like amount to be furnished within three weeks.
- (ii) Condition at Sr.No.4 stands deleted with liberty to prosecution to take necessary steps by filing necessary application before this Court, if required. Rest of the conditions remained as it is.

(P. N. DESHMUKH J.)