

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1277 OF 2016

Mr. Mohanlal Multanmal Malu	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Rameshwar N. Gite, Advocate for the applicant.
Mr. Prashant Jadhav, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 16th September, 2016.

P.C.

1. Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 14.5.2016 in Crime No.75 of 2004. The investigation is completed and charge-sheet is filed.

2. It is the case of the prosecution that on 8.12.2014, Niyaz Ahmed had filed a report at the police station alleging therein that he was acquainted with the present applicant who was in the trading of garments. That the present applicant was alleged to be running a firm known as "V.M.Fabrics" in the name of his wife Vimal. It is alleged that on 27.10.2004, the applicant had purchased cloth material from BO Firm and had issued cheques in favour of the present applicant. The said cheques

were dishonoured. The first informant has specifically stated that the whereabouts of the applicant were not known and all the cheques issued by him were dishonoured. On 23.11.2004, at about 10 a.m. he had been to the trading firm of the applicant and had found that there were several people standing outside and all of them realized that the present applicant had cheated them for an amount of Rs.29,80,776/-, whereas the complainant was cheated for an amount of Rs.79,147/-.

3. The learned counsel for the applicant submits that the applicant is a permanent resident of Pune and has assets in Pune City. It is also submitted that investigation is completed and charge-sheet is filed. That the cheques allegedly issued by the present applicant are not signed by the present applicant.

4. The learned APP submits that the applicant is absconding since 2004 and that the applicant has cheated several people and, therefore, he does not deserve to be enlarged on bail. The learned APP submits that the applicant had business in the State of Rajasthan and his whereabouts were not known to his own relatives also.

5. As against this, the learned counsel for the applicant submits that the issue of absconding can be considered only at the end of the trial and hence the present applicant be enlarged on bail upon imposing certain conditions. It prima facie appears that the applicant had taken cloth material from several traders and had not made payments. It is not known as to whether the said traders have filed prosecution under Section 138 of the Negotiable Instruments Act which can be considered on its own merits. As on today, the applicant who is in custody for the last three months, deserves to be enlarged on bail.

6. The learned counsel for the applicant, upon instructions, also submits that he would not seek modification of the order

7. It is made clear that the learned Sessions Court shall not be influenced by the above observations for the purpose of considering the application for quashing of FIR, discharge application or at the time of trial

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station on every Sunday, between 10 a.m. to 12 noon and record his presence till the date of framing of charge.

Application is allowed in the above terms and disposed of.

(SMT.SADHANA S.JADHAV, J.)