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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1902 OF 2016

Karishma Raju Chavan ..Applicant.

Vs.

The State of Maharashtra ..Respondent

Mr. K.S. Labana for Applicant.
Mr. Deepak Thakare, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 13th October 2016.

P.C.

1 This is an application under Section 439 of Cr. P.C. for bail in CR No.I-216 of 2015 registered with Badlapur (East) Police Station, District-Thane dated 4.12.2015 under Sections 420, 406, 467, 468, read with 34 of the Indian Penal Code and under Section 19((A) of the Transplantation of Human Organ Act, 2011 and under Section 66(d) of the Information Technology Act.

2 Heard the learned counsel for the applicant, the learned APP and also perused the entire chargesheet annexed to the application.

3 The first information report is lodged by Shri Krishna B. Nimsakhare on 4.12.2015. It is the prosecution case that the father of the complainant namely Shri Bhaskar Nimsakhare is the patient of diabetics and blood pressure and his both kidneys have failed and therefore he is undergoing the process of dialysis every day. That the complainant thereafter decided to perform kidney transplantation of his father. While taking search of kidney doner on the Internet, he came in contact with one Shri K.A. Binto, a resident of Kerala State. The said Shri Binto informed the complainant that he knows the applicant who is stationed at Delhi and she can provide necessary information to the complainant. The complainant thereafter gave a phone call to the applicant on her mobile, when the applicant informed him about the procedure of kidney transplant and further informed him that her agent will contact the complainant. That on 1.9.2015 the complainant received a phone call from accused No.1 Kaif Khan @ Mohd. Dawood Khan and gave guarantee that kidney transplant operation of his father will be properly carried out at Delhi. The accused No.1 informed the complainant that, at Delhi, permission of government is not necessary for performing transplantation operation. The complainant thereafter went to Delhi. The accused No.1 Mohd. Dawood Khan thereafter introduced the complainant with Smt. Neha Mehra (accused no.2) as his boss. In the said meeting it was decided that the complainant will have to pay Rs.20 lacs to the accused nos.1 and 2 for effecting the kidney transplantation operation. The complainant thereafter deposited Rs.5 lacs by way of RTGS in the account of accused no.2 Smt. Neha Mehra. The accused Nos.1 and 2 thereafter started avoiding the complainant on one or other pretext and therefore the complainant demanded money back from accused No.2 Smt. Neha Mehra upon which accused No.2 gave the complainant a cheque dated 17.11.2015 for Rs. 5 lacs dawn on Canara Bank, Maharani Baug Branch, Delhi. The said cheque was dishonoured when presented for encashment. The complainant thereafter realised that the accused persons have committed criminal breach of trust and under the pretext of performing kidney transplantation of his father have defalcated the said amount of Rs.5 lacs. In the premise the first information report is lodged.

4 The record reveals that the accused No.1 Kaif Khan @ Mohd. Dawood Khan and accused No.2 Smt Neha Mehra are the master-minds behind the alleged crime. The entire amount was transferred by the complainant by RTGS mode in the account of Smt. Neha Mehra. As far as the present applicant is concerned, as per record, the complainant after getting information from the said Mr. K.A. Binto contacted the applicant on her mobile phone only once who in turn informed the complainant that her agent would contact the complainant. The CDR record corroborates the version of the complainant. It appears that the statement of K.A. Binto is not recorded by the Investigating Agency. Apart from the said fact, there is no other evidence on record against the present applicant. The applicant is arrested on 10.2.2016 and since then she is in jail. In view of the same, the applicant has made out a case for her release on bail. The learned APP submitted that the applicant hails from Gurgaon, State of Haryana and has no residence in the jurisdiction of Badlapur Police Station and if the applicant is released on bail, she may flee from the ends of justice. The said apprehension can be taken care of by imposing stringent conditions upon the applicant.

5 Hence, the following Order:

(i) The applicant be released on bail in CR No.I-216 of 2015 registered with Badlapur (East) Police Station , District-Thane, on her furnishing PR bond of Rs.25,000/- with one or more solvent local sureties in the like amount.

(ii) Before her release from jail, the applicant shall furnish the documents pertaining to the proof of her residence to the Investigating Officer and to the Crime Branch, Unit No.4, Ulhasnagar.

(iii) After her release from the jail, the applicant shall attend the Crime Branch, Unit No.4, Ulhsnagar on every First Monday of the month between 11.00 a.m. to 1.00 p.m.

(iii) The applicant shall also attend all the dates before the Trial Court.

(iv) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail.

6 The aforestated conditions are imposed upon the applicant on the basis of concession given by the learned counsel for the applicant and the said conditions will not be modified or relaxed under any circumstances in future till the trial is concluded.

7 Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)