Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2517 OF 2015

Mushir Ahmed Saleem Ahmed .Applicant

Vs.

The State of Maharashtra .Respondent

WITH
CRIMINAL APPLICATION NO.149 OF 2016
(For Intervention)
IN
BAIL APPLICATION NO.2517 OF 2015

Ezaz Ahmed Abdul Latif .Intervenor

IN THE MATTER BETWEEN

Mushir Ahmed Saleem Ahmed .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Saurabh Singh, Advocate, for the Applicant in B.A.No.2517 of 2015
Mr.A.R.Kapadnis, Advocate, for the Intervenor in Cri.Appln.No.149 of 2016
Mr.A.Sait, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.03.2016

P.C.

. Heard learned counsel for the Applicant, learned counsel for the Intervenor and the learned APP for the Respondent – State.

2. By this Application, the Applicant aged 21 years and a student, arrested in connection with C.R.No. I-50 of 2015 registered with the Azad Nagar Police Station, District – Nashik(Rural), for the alleged offence punishable under Section 420 r/w.34 of the Indian Penal Code, seeks his enlargement on bail.

3. According to the Complainant-Izaz Ahmed Abdul Latif, Abdul Karim and Isaq Ahmed Abdul Khalid, whom he knew, had come to his factory 'Ruby Traders' in December, 2014, alongwith the present Applicant and his uncle Manjur Ahmed Mohamed Sayed (absconding). The Applicant and his uncle were introduced as loom mill owners to the Complainant.

It was further disclosed to the Complainant, that all of them were running a firm by the name 'Kaveri Textiles' and that they were doing the business of selling yarn. According to the Complainant, as he had earlier business deals with Abdul Karim and Isaq Ahmed Abdul Latif, he trusted them and gave yarn worth Rs.24,42,004/- to the Applicant and his uncle for sale. It is alleged that a cheque was issued for the said amount which was signed by the present Applicant on behalf of Kaveri Textiles, as security. Thereafter, as the accused started evading making payments, the Complainant went to Kaveri Textiles and found that there was no Kaveri Textiles office in existence and that the same was shut down and the accused had fled. Pursuant to the same, the aforesaid complaint came to be lodged.

4. Learned counsel for the Applicant states that the Applicant is a student and had lost his father and hence, he started working with his

uncle-Manjur Ahmed Mohamed Sayed(absconding) as an Accountant. He submitted that the Applicant was made a scapegoat and the entire amount of Rs.24,42,004/- was utilized by the co-accused-his uncle, who had purchased land worth Rs.24,00,000/- from the said amount. He submits that even today his uncle is absconding. He further submits that the Applicant is a young boy, aged 21 years and is a student and that he has been in custody since 01.09.2015. He submits that there is no recovery of any money at the instance of the Applicant.

5. Learned APP states that Certificate of registration of Kaveri Textiles stands in the name of the Applicant and as such, the Applicant himself is also responsible for the alleged acts. Learned APP disputes the submissions advanced by the learned counsel for the Applicant that the Applicant was only an accountant. He submits that in fact, the Applicant was also a partner in the

said firm.

6. Learned counsel for the Intervenor supports the submissions advanced by the learned APP.

7. Perused the charge-sheet. It appears that the Applicant, a student, was working with his uncle - Manjur Ahmed Mohamed Sayed. It also appears that from the said amount of Rs.24,42,004/-, which was received after selling of the yarn, given by the Complainant, the Applicant's uncle had purchased land worth almost the same amount. Admittedly, there is no recovery of any amount, at the behest of the Applicant nor are there any Bank details, which reflect that the Applicant had received any amount. The Applicant is a young boy, aged 21 years and is a student, who has been in custody since 01.09.2015.In fact,much needs to be said about the manner in which, the investigation

has been conducted in the said case. Prima facie, it appears that the Applicant has been made scapegoat by the co-accused.

8. Considering the aforesaid, the applicant is entitled to be enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.10,000/- with one or two sureties in the like amount;

(ii) The applicant shall report to the investigating officer, Azad Nagar Police Station, District – Nashik(Rural) on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. for a period of one year, from the date of his release;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

9. The Bail Application is allowed in the aforesaid terms and is accordingly disposed of.

10. In view of disposal of the Bail Application, the Intervention does not survive and the same stands disposed of accordingly.

11. It is made clear, that the observations made herein are *prima facie,* and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the

observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)