

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2346 OF 2018

Mrs. Manisha Rajendrasinh Suryavanshi ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Balwant V. Salunkhe for the Applicant.

Mr. A.D.Kamkhedkar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 10, 2018.

P.C.

1. By the present application the applicant has sought following reliefs:

(a) To release the applicant on bail in connection with C.R.No. 312 of 2017 dated 19/05/2017 registered with the Pandharpur City Police Station for the offences punishable under Section 420, 465, 467, 469, 471, 34 of the Indian Penal Code in the event of her arrest in connection with the said offence;

In the alternative to prayer clause (a)

(b) That this Honourable Court be pleased to set aside the condition nos. (ii) to (vi) to deposit the amount of

Rs.1,50,00,000/- imposed by the Addl. Sessions Judge, Pandharpur by Order dated 01.09.2018 in Bail Application No. 475 of 2018.

2. Heard Mr. Salunkhe, the learned Counsel for the applicant and Shri Kamkhedkar, the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The records reveal that the applicant was arrested in Crime No. 298 of 2017 registered at Pandharpur City Police station for the offences under Section 420, 465, 467, 469, 471, 34 of the Indian Penal Code.

4. The applicant had filed application for bail being Criminal Bail Application No. 475 of 2018. The learned Addl. Sessions Judge, Pandharpur allowed the said application on following terms :

“(ii) Applicant/accused Sou Manisha Rajendrasinha Suryavanshi, shall deposit the amount of Rs.50,00,000/- (Rs. Fifty Lakhs Only) in the Bank of Maharashtra, Branch Pandharpur.

(iii) After depositing the said amount of Rs.50,00,000/-, applicant shall deposit the next instalment of

Rs.50,00,000/- (Rs. Fifty Lakh Only) within three months from the date of first deposit.

(iv) Applicant shall further deposit the amount of Rs.50,00,000.- (Rs. Fifty Lakhs only) within a period of six months, from the date of second installment.

(v) All the above mentioned amounts deposited, will remain as a security, till completion of trial of the case, with the Bank of Maharashtra, Branch Pandharpur.

(vi) While depositing first installment of Rs.50,00,000/- the applicant shall furnish P.R.Bond of Rs.25,00,000/- with one or two solvent sureties in the like amount before the concerned JMFC, Pandharpur.

(vii) Applicant shall not tamper with the prosecution evidence and shall attend the trial Court regularly.

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.”

5. The short question for my consideration is whether it was within the jurisdiction of the Additional Sessions Judge to impose a condition to deposit Rs.1,50,00,000/-. In this regard, the learned Counsel for the applicant has relied upon the decision of the Apex Court in ***Sumit Mehta vs. State (NCT of Delhi) (2013) 15 SCC 570.***

The Apex Court after considering the several previous judgments in *Gurbaksh Singh Sibbia v. State of Punjab (1980) 2 SCC 565*; *Amarjit Singh vs. State (NCT of Delhi) (2009) 13 SCC 769*, *State Ayub vs. State of M.P. (2004) 13 SCC 457* has observed thus:

12) *The law presumes an accused to be innocent till his guilt is proved. As a presumably innocent person, he is entitled to all the fundamental rights including the right to liberty guaranteed under [Article 21](#) of the Constitution.*

13) *We also clarify that while granting anticipatory bail, the Courts are expected to consider and keep in mind the nature and gravity of accusation, antecedents of the applicant, namely, about his previous involvement in such offence and the possibility of the applicant to flee from justice. It is also the duty of the Court to ascertain whether accusation has been made with the object of injuring or humiliating him by having him so arrested. It is needless to mention that the Courts are duty bound to impose appropriate conditions as provided under sub-section (2) of [Section 438](#) of the Code.*

14) *Thus, in the case on hand, fixed deposit of Rs. 1,00,00,000/- for a period of six months in the name of the complainant and to keep the FDR with the investigating officer as a condition precedent for grant of anticipatory bail is evidently onerous and unreasonable. It must be remembered that the Court has not even come to the conclusion whether the allegations made are true or not which can only be ascertained after completion of trial. Certainly, in no words are we suggesting that the power to impose a*

condition of this nature is totally excluded, even in cases of cheating, electricity pilferage, white-collar crimes or chit fund scams etc.

15) The words “any condition” used in the provision should not be regarded as conferring absolute power on a Court of law to impose any condition that it chooses to impose. Any condition has to be interpreted as a reasonable condition acceptable in the facts permissible in the circumstance and effective in the pragmatic sense and should not defeat the order of grant of bail. We are of the view that the present facts and circumstances of the case do not warrant such extreme condition to be imposed.

6. In ***Vyomesh Shah & Ors. Vs. State of Maharashtra in Writ Petition No. 4197 of 2016***, the Division Bench of this Court has held thus:

“15. It is well settled law that while granting bail though the Court may impose such conditions as it thinks fit but the object of putting conditions should be to avoid the possibility of the person hampering investigation. The discretion of the Court while putting conditions should be in exercise of judicial discretion. In an offence under Sections 409 and 420 of IPC, the Court is certainly not going to recover the alleged amount as a condition of granting of bail. In other words, Courts are expected to put reasonable conditions in exercise of judicial discretion and such conditions should be aimed at securing the presence of the accused at the time of trial and he should not hamper the evidence or prosecution witnesses during pendency of trial. The

Court is not expected to recover the amount in a criminal proceedings by putting condition to deposit money while granting bail. In this regard, reference can be made to Apex Court decisions in Sandeep Jain vs. National Capital Territory of Delhi, Shyam Singh vs. State through CBI and Sheikh Ayub vs. Stae of M.P.”

6. The principles laid down in the aforesaid decisions are squarely applicable to the facts of the present case. In the instant case, the question whether the applicant has misappropriated the amount or not and or has committed the alleged offence is a matter of trial. Hence the learned Judge could not have treated the proceedings as recovery proceeding and directed the applicant to deposit the amount of Rs.1.5 Crores as a condition of bail. Furthermore, it is seen that the learned Judge has directed the applicant to furnish P.R. Bond to the tune of Rs.25 lakhs. Needless to state that the condition is onerous, unreasonable and amounts to denial of bail. Such condition defeats the very object of bail. In the facts and circumstances, the said condition cannot be sustained.

7. In the light of above, the application is allowed on the following terms and conditions :

(i) The applicant who is arrested in C.R.No. 312 of 2017 dated 19/05/2017 registered with the Pandharpur City Police Station, is ordered to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rupees Twenty-five Thousand Only) with one or two solvent sureties in the like amount to be the satisfaction of the learned JMFC at Pandharpur.

(ii) The condition nos. (ii) to (vi) are quashed and set aside.

. The application stands disposed of in above terms.

(ANUJA PRABHUDESSAI, J.)