IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2818 OF 2017

Raju Pundalik Deshpande ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.Mahendra Shingade, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 16th FEBRUARY 2018.

P.C. :

1 This is an application for releasing the applicant/accused on bail for offences punishable under Sections 420, 406, 507 of the Indian Penal Code registered vide Crime No.44 of 2016 with Police Station Varsova at the instance of Yogeshkumar Bali.

2 Heard the learned Advocate appearing for the applicant/accused. He drew my attention to the Order dated 23rd August 2016 passed by the Division Bench of this Court in Criminal Writ Petition No.1838 of 2016 and argued that as the applicant was behind bars, an amount of Rs.Thirty Lakh could not

be arranged in order to deposit the same with this Court and, therefore, the petitioner could not get relief of quashing the FIR.

3 The learned Advocate further drew my attention to Orders dated 24th August 2017 and 15th September 2017 passed by this Court (Coram : Smt.Revati Mohite Dere, J.) in Criminal Bail Application No.1591 of 2017 and submitted that the applicant could not arrange for the amount as directed and, therefore, ultimately, his Bail Application was rejected by this Court on 4th October 2017. With this, the learned Advocate submitted that the applicant has already deposited an amount of Rs.5,00,000/- on 16/09/2017 in the Registry of this Court and a Demand Draft dated 27/11/2017 for the balance amount of Rs.25,00,000/- is ready for being deposited in the Registry of this Court. The learned Advocate further argued that the applicant has two school going children and rest of the offences registered against the applicant are arising out of civil transaction. Therefore, in submission of the learned Advocate for the applicant/accused, the applicant is entitled for bail as the charge-sheet has already been filed and the applicant is in custody from 03/04/2017.

4 The learned Additional Public Prosecutor opposed the application by contending that apart from this offence, four other offences are registered against the present applicant wherein allegations of cheating and financial gain by cheating are made

against him. Therefore, in submission of the learned APP, who is assisted by the learned Advocate for the First Informant, the applicant is not entitled for bail as he has committed the present offence while on bail in other offences.

5 I have carefully considered the rival submissions and also perused the entire charge-sheet.

6 The FIR of the subject crime came to be registered on the basis of report lodged by Yogeshkumar Bali. The First Informant is a senior citizen. He alleged that the applicant informed him that he is owner of a old car of BMW make and induced him to purchase the said car bearing registration No.MH-08-W-909 for consideration of Rs.41 Lakh. The First Informant alleged that he paid amount of Rs.30 Lakh by cheques and Rs.11 Lakh was paid by cash. However, the applicant delayed the process of handing over papers of ownership of the car as well as the Registration Certificate thereof. The First Informant further averred that ultimately, he came to know that the applicant is not the real owner of the said car and it was hypothecated to the I.C.I.C.I. Bank as the applicant had taken a loan of Rs.30 Lakh on that car. The FIR contains averments that that car was taken back by the Officers of the I.C.I.C.I Bank due to non-payment of the loan amount by the applicant. The learned Additional Public Prosecutor has now reported that the said Car is seized in the subject crime.

7 As the applicant has already deposited an amount of Rs.5,00,000/- and the Demand Draft of Rs.25 Lakh is ready with the learned Advocate for the applicant for depositing it in the Registry of this Court, normally the applicant would have been entitled for bail. However, the learned APP has pointed out that on 09/02/2014, Crime No.26 of 2014 was registered against the applicant at Khandeshwar Police Station for offences punishable under Sections 465, and 467 on report of Mr.Dilip Jadhav with allegations that the applicant had indulged in using forged document as genuine. The learned APP further submitted that the second offence against the applicant is registered vide Crime No.76 of 2015 on 24/05/2015 at Police Station Ambejogai for offences punishable under Sections 420 and 472 of the Indian Penal Code with an allegation that he had cheated the First Informant by informing him that six shop blocks are available for sale at Panvel and misappropriated an amount of Rs.8 Lakh from him on that count. In submission of the learned APP, the third offence bearing Crime No.82 of 2015 is registered against the applicant on 16/06/2015 at Khandeshwar Police Station under Section 420 of the IPC by Shashikant Patil with an allegation that the applicant had assured him to sell house and shop blocks and obtained an amount of Rs.25 Lakh from him by RTGS and Rs.15 Lakh by cash. However, the shop blocks and the house was never transferred in favour of that First Informant. The learned APP further informed to this Court that fourth offence against the

present applicant is registered on 16/08/2015 at Police Station, Latur bearing Crime No.158 of 2015 under Sections 406 and 420 read with Section 34 of the IPC on report of Vivek Shinde, wherein it is alleged that the applicant had obtained an amount of Rs.80 Lakh from him by giving false promise of giving flats at Ulawe, Navi Mumbai at cheaper rate, but no such flats were transferred in the name of the First Informant.

8 It is not disputed that these four crimes are registered against the present applicant. In submission of the learned Advocate for the applicant, all these crimes are reflecting civil transactions as the applicant is a builder by profession and by keeping him in jail, these matters cannot be sorted out. One of the principle in granting bail is the Court being assured that on release on the bail, the accused will not commit any offence in future. However, in the case in hand, it is seen that the applicant, on securing liberty in four offences, registered against him at different Police Stations, which are substantially of similar nature is alleged to have cheated First Informant by selling a car to him for valuable consideration though the loan amount of Rs.30 Lakh as against that car was due and payable by the applicant to the I.C.I.C.I. Bank.

9 In this view of the matter, though the applicant is willing to deposit the amount of Rs.25 Lakh in the Registry of this Court for securing liberty in this case, this Court is not assured that

on being released on bail, the applicant will not repeat commission of similar offence in future. Similarly, this Court has noted in the Order dated 4th October 2017 passed in Criminal Bail Application No.1591 of 2017 that though the applicant was directed to attend the Police Station with all relevant papers on 24th February 2015 in the subject crime, the applicant did not attend the Police Station and ultimately, he was required to be apprehended on rejection of application for anticipatory bail.

10 The cumulative effect of foregoing discussion require me to hold that the applicant has not made out a case for release on bail. However, as the applicant is behind bars from 03/04/2017 and as the charge-sheet is filed, the trial against the applicant needs to be expedited. Therefore, the Order :

ORDER

(i) The application is rejected.

(ii) However, the learned trial Court is directed to take up the trial against the applicant and finish it of within a period of three months from the date of communication of this Order.

(iii) The Registry to take expeditious steps for informing this Order to the learned trial Court, which according to the learned Advocate for the applicant is the Court of the Metropolitan Magistrate, Andheri.

(A.M.BADAR J.)