

Anand

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

**CRIMINAL APPLICATION NO. 805 OF 2019
IN
BAIL APPLICATION NO. 1195 OF 2019**

Naeem Salim Ansari .Applicant

Vs.

Bharat Champaklal Parekh & anr. .Respondents

Mr. Yashpal M. Thakur i/b. Mr. Vivek Arote, Advocate, for the Applicant

Mr. Piyush Toshniwal, Advocate, for the Respondent No. 1

Mr. S. V. Gavand, APP, for the Respondent No. 2 – State

CORAM : REVATI MOHITE DERE, J.

DATE : 06.09.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant, as an authorized representative of Mrs. Rupal Shah and Dr. Rutuja Shah, seeks to withdraw an amount of Rs. 29,87,492/- deposited in this Court by the Respondent No. 1 – Bharat Parekh. The Applicant has further prayed that an amount of Rs. 9,96,969/- be released in favour of Mrs. Rupal Shah and an amount of Rs. 19,90,523/- be released in favour of Dr. Rutuja Shah.

3. Learned counsel for the Applicant states that the

Respondent No. 1 - Bharat Parekh admits having received the said amount. Learned counsel for the Applicant has tendered an Affidavit-cum-undertaking of the Applicant stating therein that in the event, the amount is released in favour of Mrs. Rupal Shah and Dr. Rutuja Shah, they undertake to execute an indemnity bond before the learned Metropolitan Magistrate, 10th Court, Andheri, Mumbai (C. C. No. 944/ PW/ 2019) with an undertaking that as & when directed by the learned Metropolitan Magistrate, they will return the said amount. He submits that the said exercise will be done before the actual amount is released.

3. Learned counsel for the Respondent No. 1 has no objection, if the said amount is released in favour of Mrs. Rupal Shah and Dr. Rutuja Shah as aforestated. Learned counsel for the Respondent No. 1 has tendered an Affidavit-cum-undertaking of the Respondent No. 1. The same is taken on record. The Respondent No. 1 has listed the cases filed against him in para 5 of the said Affidavit-cum-undertaking. He states that the Respondent No. 1 has no objection for releasing the said amounts, provided Mrs. Rupal Shah and Dr. Rutuja Shah give their no objection for quashing of all the cases mentioned in para 5 of the said Affidavit-cum-undertaking. Learned counsel for the Applicant states that Mrs. Rupal Shah and Dr. Rutuja Shah will give their no objection for quashing of all the proceedings enlisted in para 5 of the Affidavit-cum-undertaking tendered by the Respondent No. 1 - Bharat Parekh,

provided the amounts are allowed to be withdrawn. Learned counsel for the Applicant also submits that the Applicant / Original Complainant i. e. Mrs. Rupal Shah and Dr. Rutuja Shah will co-operate with the Respondent No. 1 - Bharat Parekh in quashing of all the proceedings before the appropriate forums i. e. the cases enlisted in para 5. Statements accepted.

4. Considering the aforesaid, the Application is allowed on the following terms & conditions :-

ORDER

(i) Mrs. Rupal Shah and Dr. Rutuja Shah to execute indemnity bonds before the Metropolitan Magistrate, 10th Court, Andheri, Mumbai (C. C. No. 944/ PW/ 2019) undertaking that as & when directed by the learned Metropolitan Magistrate, they shall return the aforesaid amounts;

(ii) On furnishing the said undertaking and on production of xerox copy of the said indemnity bonds, Registry to release the amounts in favour of Mrs. Rupal Shah and Dr. Rutuja Shah;

(iii) Registry to release the amounts in favour of Mrs. Rupal Shah and Dr. Rutuja Shah on their furnishing proof of their identity i. e. Rs. 9,96,969/- with accrued interest, if any, in favour of Mrs. Rupal Shah and Rs. 19,90,523/- with accrued interest, if any, in favour of Dr. Rutuja Shah.

5. Accordingly, the Application is disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)