

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.282 OF 2020

Kaarl Patrawala, Age 33 years,
Occ.Financial Analyst, R/o.Q/6, Cusrow House,
Shahid Bhaat Singh Road, Mumbai-400 001
(Presently lodged in prison)

Applicant

versus

1. The State of Maharashtra
2. Viraf Chinoy

Respondents

Mr.Aabad Ponda, Senior Advocate, with Kinnari Mehta i/by Sunny
Punamiya i/by SSP Legal & Co for applicant.

Mr.Vikram Sutaria for respondent no.2-complainant

Mr.S.R.Agarkar, APP, for State.

Mr.C.B.Mohite, PSI, Malbar Hill Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th March 2020

PC :

1. This is an application for bail in CR No.19 of 2019 registered on 27th February 2019 with Malbar Hill Police Station, Mumbai, for offences under Sections 420, 409 and 120-B of Indian Penal Code.

2. The complaint was lodged by Viraf Chinoy on 27th February 2019. It is alleged that the complainant met the applicant through common acquaintance in 2017. The applicant gave him proposal to invest money in share market. An agreement of loan was executed on 13th November 2017 for Rs.33,33,333/-. The applicant returned amount of Rs.21,53,333/- during the period between January-2018 and September-2018. It is further alleged that on the inducement of the accused, the complainant had invested huge amount which was

misappropriated by the accused.

3. The applicant had preferred application for bail before Sessions Court which was rejected vide order dated 14th August 2019.

4. Learned counsel for applicant submitted that the complainant and applicant had settled the dispute between them. They have reached at amicable settlement. The complainant has been added as respondent no.2. The complainant is represented by advocate. The affidavit-in-reply on behalf of respondent no.2 was tendered on 24th January 2020 in Court. Respondent no.2-complainant has stated that dispute between applicant and the complainant has been settled and they have executed consent terms. It is further stated that dispute has been amicably settled and he has gone through application and confirms the statement about settlement. The complainant has no objection if applicant is granted bail. The affidavit-in-reply dated 24th January 2020 tendered by respondent no.2 is taken on record and marked "X" for identification.

5. Learned advocate for applicant further submitted that during the course of investigation of Shahazad Gandhi, Rustum Irani, Yazad Wadia, Smt.Lalerukh Sarbh were recorded. The said statements indicate that the amount invested by them was returned to them. It is further submitted that all the offences are triable by Magistrate. The applicant was arrested on 10th April 2019. Investigation is completed and charge sheet is filed. It is further submitted that statements of other aggrieved persons were also recorded who are witnesses in this case. It is submitted that part payment to those

witnesses has been made by applicant. It is further submitted that applicant would make an endeavour to settle the dispute with other witnesses after he is released on bail. Learned counsel relied upon decision of Hon'ble Supreme Court in the case of State of Gujarat Vs. Jaswantlal Nathalal (AIR-1968-SC-700), Dataram Singh Vs. State of Uttar Pradesh and another (2018)3-SCC-22 and P.Chidambaram Vs. Directorate of Enforcement (Criminal Appeal No.1831 of 2019) decided on 4th December 2019. It is submitted that the applicant is permanent resident of Mumbai. There is no likelihood that he would abscond. The major investment was by the complainant with whom he has settled the dispute.

6. Learned APP submitted that several persons had invested amount and to some of them part payment has been made and the complainant had alleged that huge amount invested by him was not returned to him. However, from the submissions advanced hereinabove it is apparent that major investment was of complainant with whom the applicant has settled. The applicant is in custody from the date of arrest. Charge sheet is filed. In the circumstances, bail can be granted to the applicant.

7. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.282 of 2020 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.19 of 2019 registered with Malbar Hill Police Station, Mumbai, on executing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(iii) The applicant shall report Malbar Hill Police Station once in a month on every first Saturday between 11 am and 1 pm till further orders.

(PRAKASH D. NAIK, J.)

MST