

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 588 OF 2019

ALONGWITH

BAIL APPLICATION NO. 2633 OF 2019

Aditya Dilip Bagwe

...Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Milan Desai i/by Mr. T.R. Patel, Advocate for the applicant.

Mr. S.C. Singh i/by Mr. Abhishek Rai for Intervenor in Bail Application No.588/2019.

Ms. J.S. Lohakare, APP for Respondent-State.

Mr. Kishor Tukaram More, PSI, Vanrai Police Station.

CORAM : SANDEEP K. SHINDE, J.**Wednesday, 29th January, 2020.****P.C. :**

Heard.

1. Applicant seeks enlargement on bail in Crime No. 288/2016 registered with Vanrai Police Station and Crime No. 08/2017 registered with Meghwadi Police Station for the alleged offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code, 1860 ("IPC" for short).

2. The applicant is in custody for both the crimes since 20th July, 2018. Crime No.288 of 2016 came to be registered on 19th September, 2016 whereas Crime No. 08/2017 was registered on 07th January, 2017.

3. Investigation in both the crimes is over and the final report has been filed.

4. I have perused the final report. The complaint in both the crimes does not prima facie, make out a case of cheating. Be that as it may, in Crime No.288 of 2016, it is alleged by the complainant that the applicant had taken a delivery of mobile handsets from the dealers of Samsung namely RPGS Tele marketing and SM Tele direct amounting to Rs.11,00,000/- in his name but did not deliver the said mobile handsets to him.

5. The complaint does not show and/or indicate that in money/consideration of the mobile handsets, complainant had parted with consideration

to the applicant, nor is it the complainant's case that he had paid amount in consideration to RPGS Tele marketing and/or SM Tele direct for the purchase of the said mobile handsets. Therefore, at the most if the prosecution's case is accepted, the aggrieved party could not be the complainant because it was RPGS Tele marketing and/or SM Tele direct who had delivered and parted with the property to the applicant without consideration and not the complainant.

6. In view of the nature of accusation and the evidence available on record and further that the investigation is over and applicant's presence for the trial can be secured by imposing conditions, the Bail Application No. 588 of 2019 is allowed and applicant is directed to be released on bail.

7. So far as the offence registered with Meghwadi Police Station in Crime No. 08/2017, it may be stated this crime came to be registered on behalf of RPGS Tele marketing and SM Tele direct. It is

alleged that the applicant had taken delivery of mobile handsets worth Rs. 2,01,666/-, however did not pay consideration, neither did he return the mobile handsets, hence the complaint was lodged.

8. Learned counsel for the applicant, on instructions undertakes to deposit Rs. 2,01,666/- in the Registry of this Court within seven days from the date of his release on bail. Statement is accepted. Even otherwise, in this case, the investigation is over and the final report has been filed. The trial in both the crimes is likely to commence and conclude in the near future. In this crime, applicant's presence for the trial can be secured by imposing conditions, therefore, he is directed to be released on bail on the following conditions.

ORDER

(i) The applicant is directed to be released on bail on executing P.R. Bond for the sum of Rs.50,000/- in each case with one or more

sureties in the like sum;

(ii) The applicant shall deposit Rs. 2,01,666/- in the Registry of this Court within seven days from the date of his release on bail in both the crimes;

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

(iv) The applicant shall furnish the particulars of his residential address as well as permanent address and contact details to the investigating officer within seven days from the date of his release on bail;

9. The applications are allowed in the aforesaid terms and disposed off.

10. It is made clear that the observations made hereinabove shall be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in

other proceedings.

11. List both the matters on 14th February, 2020 for compliance of the order.

(SANDEEP K. SHINDE, J.)