

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

CRIMINAL BAIL APPLICATION NO.2684 OF 2021

Javed Shafi Kaji

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Rahul B. Khot, for the Applicant.

Mr. A. A. Palkar, A.P.P for the Respondent– State.

CORAM : REVATI MOHITE DERE, J.

DATE : 14th SEPTEMBER 2021

P.C. :

1. Heard learned Counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 288 of 2020 registered with the Ashta Police Station, Sangli, for the alleged offences punishable under Sections 323, 419, 420, 504, 506 r/w 34 of the Indian Penal Code.

3. Perused the papers. According to the complainant – Riyaj Landge, he was doing the business of excavation of mines and minerals and was running a business in the name and style of “Power Max Multi Enterprises LLP”. The complainant has alleged that the applicant alongwith

other co-accused came in his contact, pursuant to the said business. It is alleged that the applicant alongwith other co-accused sought financial help for the purpose of their business, pursuant to which, the complainant transferred an amount of Rs.1,08,00,000/- odd, by way of cash and RTGS to the accused during the period 12th May 2019 to August 2019. It is alleged that on 3rd August 2019, an Agreement was entered between the complainant and the accused, by which partnership was assured to the complainant in the accused business. However, except giving assurance, nothing was done in furtherance. It is alleged by the complainant that a document was shown to him i.e. allegedly a demand draft drawn in the name of the accused and that even blank cheques were given to the complainant as a security. It is alleged that when the complainant started demanding money, the accused threatened and even assaulted him, pursuant to which, he lodged a complaint with the Ashta Police Station, Sangli on 25th August 2020, which case was subsequently transferred to E.O.W. Sangli.

4. Learned Counsel for the applicant submits that the complainant whilst lodging the aforesaid FIR had suppressed the earlier proceedings filed by him with respect to the same subject matter. He submits that the complainant had filed a private complaint being Criminal Miscellaneous

Application No.543 of 2019 in the Court of the learned Judicial Magistrate First Class, Islampur, praying therein for a direction for sending the matter for investigation by the police under Section 156(3) of the Code of Criminal Procedure. He submits that the learned Magistrate vide order dated 18th October 2019, rejected the said prayer seeking a direction for investigation by the police under Section 156(3) Cr.PC. and instead directed the complainant to remain present for verification on the next date. The said order is on page 153 of the application. It appears that thereafter verification was recorded. Considering the complaint, complainant's verification and other documents on record and after hearing the advocate for the complainant, the learned Magistrate vide order dated 24th December 2019, dismissed the complainant's complaint under Section 203 Cr.PC. He submits that the private complaint filed by the complainant was on the same set of facts as the present FIR and that the said proceeding has been suppressed by the complainant in the FIR.

5. *Prima facie*, there appears to be some substance in the submissions advanced by the learned counsel for the applicant. Be that as it may, investigation is complete and charge-sheet is filed. The applicant is in custody since 11th March 2021 and as such further detention of the applicant is not warranted.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two local sureties in the like amount;
- (ii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.