

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.920 OF 2021

Minol Anil Hudda .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.A.I.Mookutiar with Mr.Adnan A. Mookutiar i/b Mr.Sanjay Bhatia for the Applicant.

Ms.J.S.Lohokare, APP for the State.

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CORAM: BHARATI DANGRE, J.
DATED : 21st SEPTEMBER, 2021

P.C:-

1. The Applicant is charged in C.R.No.I-323 of 2020 registered with Manikpur Police Station, Palghar, thereby invoking Sections 420, 406 of the Indian Penal Code. He came to be arrested on 09/10/2020 and on completion of investigation, charge-sheet has been filed.

2. Concerned C.R. is registered on a complaint filed by one Smt.Pushpalata V. Gandhi, resident of Vasai, who narrated that her son, aged 20 years, was in love with a minor girl and an offence was registered against him by invoking the relevant provisions of the IPC and the POCSO Act. The said offence was registered on 21/01/2020 and since he was taken into custody, she was making sincere efforts to get him released on bail. She

became desperate as her son remain incarcerated though a period of almost five months had expired. She was introduced to the present Applicant through some common friends of her son, who assured her to secure the release of her son on bail and the impression given was that his father is a well-known lawyer and he will guarantee that bail is secured in fifteen days. In the moment of desperation, the Complainant allege that, she parted with an amount of Rs.16,50,000/- in total, sometimes in cash and sometimes by way of cheques. However, when her son could not walk free and when inquiries were made with the Applicant, who gave evasive response, she lodged the complaint, which resulted in invocation of Section 420 of the IPC.

3. The charge-sheet refers to the bank statement of the Applicant wherein the corroboration is to be found about the payment of Rs.4,00,000/- made by the Complainant to the Applicant by cheque. The statements of the witnesses, who accompanied the Applicant while the payment was accepted from the Complainant, are also compiled in the charge-sheet and one such witness is Mayur Thakkar, who has stated that, in his presence, the Complainant handed over the amount to the Applicant and when the amount was handed over, the guarantee was given by the Applicant that he will work out the settlement. Some chat messages are also placed on record, however, in absence of 65-B certificate being obtained, they cannot be relied upon.

4. Though the offence, *prima facie*, is of cheating, it seems that cheating is for the purpose of manipulation of the proceedings in the Court and what has been assured is that the settlement will be worked out and the term 'settlement' can very well be appreciated in the light of the nature of the proceeding. It is not uncommon feature that when the matter is pending before the particular Court, the parties indulge into transaction under the guise of 'settlement' and sometimes it so happens, even without the knowledge of counsel on record, who may prefer to argue the case on its merit. This tendency of guaranteeing the decision to come in favour of one party or the other, amounts to maligning a particular Judge and at large, the institution itself by giving an impression that justice can be bought and the Prosecutors and Judges can be sold. This vexatious attempts are rampant and this has to be nipped in the bud.

Though the offence punishable is under Section 420, the nature of the allegations levelled against the Applicant where the Complainant has been duped for the aforesaid amount on the assurance that the bail will be sought by effecting 'settlement', makes the offence grave and this peculiar fact, dis-entitle the Applicant to be released on bail.

The application is rejected.

(SMT. BHARATI DANGRE, J.)