

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3431 OF 2021

Fahim Firoz Khan	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Niranjan Mundargi i/b Kunal Ambulkar for the applicant.
Mr. Tapan Thatte i/b Vinayak Patil for the intervenor.
Mr. N.B. Patil, APP for the State.
PSI Shri Amol Ghodke from Koregaon police station, Pune City
present.

CORAM: BHARATI DANGRE, J.
DATED : 2nd DECEMBER 2021

P.C:-

1 The applicant came to be arraigned as an accused in C.R.No. 0123/2021 registered with Koregaon Park Police Station, Pune which invoke Sections 406, 465, 467, 468, 471, 420, 120-B of the IPC. The offence came to be registered on a complaint filed by one Shivani Agrawal with the concerned police station alleging that she was defrauded to the extent of Rs.86,06,606/- and in the said C.R, the present applicant is arraigned as accused no.2 along with three other accused. For the said offence, he is also charge-sheeted and the case is converted into RCC No.

3918/21 presently pending on the file of JMFC, Shivaji Nagar, Pune.

2 In the aforesaid offence, the applicant came to be arrested on 7th August 2021 and since then, he remain incarcerated. Today, a Memorandum of Understanding drawn between the complainant and one company in the name of Brahma Multicon Pvt.Ltd along with several other parties, is placed before me. The said Memorandum bear the signature of the applicant and the complainant along with one Drishti Jethwani. The consent terms are taken on record and marked “X” for identification

On its perusal, it is manifest that several civil and criminal litigations/disputes are pending between the parties *inter-se*, and list of these proceedings is to be found in table 1 and 2, which include the complaints filed by the applicant and his relatives and complaints filed against him and his relatives.

3 In the wake of the aforesaid disputes, the parties have not arrived at an amicable settlement and the terms are to be found in form of paragraph nos.1 to 5. Para 6 also make a reference to the arrest of the applicant in C.R.No. 0123/2021 registered with Koregaon Park police station and that the application for bail filed by the applicant in the High Court is pending, with an understanding that the parties intend to end all

the pending court proceedings in the Courts/Tribunals/or any forum, the statement is recorded in the following terms.

“All disputes or difference civil in nature which may arise by and between the parties hereto arising out of the terms hereof or the interpretation of the terms and conditions of these presents or the performance by either of the parties hereto of its/their obligations vis-a-vis the other party hereto, shall be referred to the Arbitration under the provisions of the Arbitration and Conciliation Act 1996. The Arbitration Proceedings shall be conducted in English language and seat and venue of the Arbitration shall be Pune, Maharashtra, India, Cost of Arbitration will be paid by the party violating terms of present deed”

4 The learned APP has confronted the Investigating Officer with the terms of understanding, which are tendered before the Court today and the prosecution has no objection for the settlement being arrived at between the parties. In any case, this do not have any impact on state exchequer nor is it likely to cause loss to the Government or its agencies. Since the dispute between the parties is now settled, they also agree that they would be approaching the competent Court for quashing of the FIR. However, in the wake of the consent terms, further incarceration of the applicant is unnecessary and therefore, he is entitled to be released on bail subject to the following stipulation :-

ORDER

- (a) The Applicant – Fahim Firoz Khan in connection with C.R.No.123 of 2021 registered with Koregaon Park Police Station, Pune shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount. The applicant is permitted to be released on temporary cash bail for a period of two weeks.
 - (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
 - (c) The Applicant shall make himself available as and when required by the Investigating Officer.
5. The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J