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

BAIL APPLICATION NO. 3501 OF 2021

Mr. Avinash Pandurang Koli ...Applicant

Versus

The State of Maharashtra ...Respondent

.....
Mr.Niranjan Mundargi i/b. Mr. Kunal Ambulkar for the
Applicant.

Mr. H.J. Dedhia, APP for the Respondent -State.

.....

CORAM : V.G.BISHT, J.

DATE : 15th NOVEMBER, 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. I-02 of 2017 registered with Kalamboli Police Station, Navi Mumbai for offences punishable under Sections 420, 465, 467, 468, 471 and 474 read with 34 of the Indian Penal Code (the IPC).

2. Heard learned Counsel for the applicant and learned APP.

3. It appears that on 11th October, 2021, learned Counsel for the applicant made a statement before this Court (**Coram: Revati Mohite Dere, J.**) to the effect that the applicant would file an affidavit-cum-undertaking setting out how the amount of Rs. 2,50,00,000/- would be deposited by him. On the basis of said statement, this Court accordingly directed the Superintendent of Taloja Central Prison to permit the applicant to affirm the affidavit-cum-undertaking before him or before the appropriate authority as per the rules. The applicant has filed the affidavit-cum-undertaking, which is kept at **Exhibit X** for identification. Perused.

4. On going through the affidavit-cum-undertaking, it is seen that the applicant had moved bail application being Criminal Misc. Application No. 1011 of 2018 before the learned Additional Sessions Court, Raigad- Alibag, which was allowed vide order dated 8th January, 2019, subject to certain terms and conditions. One of the condition was to deposit an amount of Rs. 3 Crores in the Court. As the applicant was

not in a position to deposit the entire amount of Rs. 3 Crores in one go, he preferred an application being Criminal Misc. Application No. 271 of 2019 for relaxation/ modification of the said condition. The said application was allowed vide order dated 2nd April, 2019 and the condition was modified to deposit Rs. 50 lakhs in six equal installments. After depositing first installment of Rs. 50 lakhs, he was released on bail.

5. It is further seen from the said affidavit-cum-undertaking that as the applicant was not in a situation to make any further payments, he again preferred an application being Criminal Misc. Application No. 124 of 2019 (old 561 of 2019) on 29th July, 2019 for relaxation/ modification of the condition. However, the said application came to be rejected on 17th September, 2019 and on the very day, the applicant was taken in judicial custody and since then the applicant is in judicial custody.

6. Mr. Mundargi, learned Counsel for the applicant, submits that the applicant has already deposited Rs. 50 lakhs and is ready to deposit another Rs. 30 lakhs to show his bonafides as a pre-condition to seek bail and the remaining amount of Rs. 2,20,00,000/- would be deposited by him in a phased manner, the details whereof is given at para 9 of the affidavit-cum-undertaking.

7. Mr. Dedhia, learned APP, however, submitted that let the applicant be permitted to deposit the whole amount in one go and till then the present application be kept pending.

8. Having heard both the sides and gone through the record, there is no dispute that the amount of Rs. 50 lakhs has already been deposited by the applicant. The applicant is ready to deposit Rs. 30 lakhs immediately before he is ordered to be released on bail. As far as the remaining amount of Rs. 2,20,00,000/- is concerned, para 9 of the affidavit-cum-undertaking gives details thereof as to how the said amount would be paid.

9. In my considered opinion, in view of above, the application deserves consideration. Hence, the following order :

ORDER

(i) Applicant- Avinash Pandurang Koli shall be released on bail in C.R. No. I-02 of 2017 registered with Kalamboli Police Station, Navi Mumbai on his executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in like amount.

(ii) The released order shall be subject to condition that the applicant shall deposit Rs. 30 lakhs immediately and it is only after the deposit of Rs. 30 lakhs, he would be entitled to be released on bail.

(iii) It is further ordered that the applicant shall adhere strictly to the schedule payment of Rs. 2,20,00,000/- as given in para 9 of the affidavit-cum-undertaking.

(iv) In the event of failure of payment of any of the installments as given in para 9 of the affidavit-cum-undertaking, the bail so granted to applicant shall stand cancelled and he shall be taken in custody forthwith by the concerned police station.

(v) The applicant is further directed to deposit passport with the investigating officer within 3 days from the date of his release on bail.

(vi) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(vii) The application is allowed in the aforesaid terms.

(V.G.BISHT, J.)