

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

CRIMINAL BAIL APPLICATION NO.3158 OF 2019

Afzal Maklai Applicant

versus

The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO.1273 OF 2021
WITH
INTERIM APPLICATION NO.29 OF 2021
WITH
INTERIM APPLICATION NO.1324 OF 2021
WITH
INTERIM APPLICATION NO.3056 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3158 OF 2019**

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- Mr.Hrishikesh Mundargi, Advocate for the Applicant.
- Mr.Mubin Solkar i/b. Aamir Sopariwala a/w Mr.Karansingh Rajput, Advocate for Applicant in IA/1324/19, IA/29/20, IA/3056/21.
- Mrs.Veera Shinde, APP for the State/Respondent.

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**CORAM : SARANG V. KOTWAL, J.
DATE : 17th DECEMBER, 2021**

P.C. :

1. The Applicant is seeking bail in C.R.No.147 of 2019

registered at Gamdevi Police Station 420, 406 r/w 34 of the Indian Penal Code.

2. Heard learned counsel Mr.Hrishikesh Mundargi for Applicant and Mrs.Veera Shinde, learned APP for State/ Respondent, Mr.Mubin Solkar and Mr.Karansingh Rajput, Advocate for Intervenors.
3. FIR was lodged by Maheboob Abdulgani Ansari. It is mentioned in the FIR that in the month of September 2016, the informant came in contact with the Applicant. The Applicant offered to give his shop on rent. He told the informant that he wanted Rs.17 lakhs for his business. The informant offered to give Rs.17 lakhs, but he wanted security. At that time, the Applicant told him that there is another tenant in the shop and that the informant should enter into agreement with the tenant and that he should take Rs.40,000/- as rent for that shop directly from the tenant. The informant entered into agreement with that tenant Mushtaq Abdul Sattar. In September 2016 the informant paid him Rs.17 lakhs through cheque. The informant

was paid rent only on three occasions and thereafter he was not paid any rent or other amount. On further enquires the informant came to know that the Applicant and his neighbour had cheated many others in respect of the same shop. On this basis, the FIR was lodged. Investigation was carried out. During the investigation it was found that the Applicant had cheated many victims and the total amount which he had wrongfully gained was to the tune of Rs.99 lakhs. On this basis charge-sheet was filed.

4. At the first instance this Court (Coram : Prakash D. Naik, J.) vide order dated 17/02/2020 granted bail to the present Applicant on accepting the undertaking given by the Applicant that he would deposit Rs.56,95,000/- within four months from the date of actual release. The matter was thereafter directed to be posted on 30/06/2020. The record shows that on 11/08/2021 the Applicant had given undertaking to pay balance amount of Rs.52,95,000/- in the registry of this Court on or before 01/12/2021. Some amount was paid in

between to one of the Intervenor and thereafter this figure of Rs.52,95,000/- was mentioned in order dated 11/08/2021. By this undertaking the bail granted to the Applicant was extended to 06/10/2021. Thereafter this matter appeared before this Court on 30/10/2021 and 20/11/2021. Since the earlier bench had granted time till 01/12/2021 already, the matter was posted after that day.

5. Today, I am informed that the Applicant has not complied with the undertaking given by him before this Court. No justification is given for not complying with this undertaking.

6. Mr.Hrishikesh Mundargi sought to contend that attempts were made to make arrangements and some amount was paid, but he could not answer as to why Rs.52,95,000/- as undertaken to be paid, were not deposited. He submitted that the Applicant is not in a financial position to make the payment.

7. The Applicant is enjoying liberty only on the basis of solemn undertaking given to this Court, which is recorded in the

order dated 17/02/2020. After a period of more than 22 months, the undertaking still remains unfulfilled. No justification is offered. It appears that this Court was led to believe that the Applicant's undertaking was bonafide. However, it appears that he did not intend to honour his commitment. No serious efforts were made by the Applicant to fulfill his undertaking. In this background, I am not inclined to entertain this application. The conduct of the Applicant is deprecated. In this background, the application deserves to be rejected. Hence the following order:

ORDER

1. The application is rejected. The Applicant is directed to surrender forthwith. If he does not surrender, the concerned police station shall take steps to arrest him.
2. With disposal of the Bail Application, the Interim Applications also stand disposed of.

(SARANG V. KOTWAL, J.)