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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.190 OF 2022
ALONGWITH
INTERIM APPLICATION NO.648 OF 2022
IN
BAIL APPLICATION NO.190 OF 2022

Dilip Kesarsingh Rajput	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Dr.Yug Mohit Chaudhry a/w Dashrath Gaikwad and Krutika Agarwal for the Applicant.

Ms.Namita Maneshinde for the Intervenor.

Smt.A.A. Takalkar, APP for the State.

API Rohini Dhere, Malbar Hill Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 20TH AUGUST, 2022.

P.C.

1] Heard learned counsel for the parties.

2] The Applicant is seeking his release on bail in connection with CR No. 208/2021 which invoke offence punishable under Section 354(C), 376, 406, 420, 403, 417 and 506 of the Indian Penal Code.

He came to be arrested on 15.06.2021, on the complaint filed on 14.06.2021.

On completion of investigation, charge-sheet has been filed in August, 2021 and till date, it is informed that the charge has not been framed.

3] In order to appreciate entitlement of the Applicant for being released on bail, I have perused the material compiled in the charge-sheet.

The subject CR came to be registered on the complaint filed by the complainant on 14.06.2021, wherein she alleged that she is a businesswoman by profession and a single mother residing at the address mentioned in the complaint. She came in contact with the Applicant on 27.07.2018, through a common friend and since the Applicant painted a rosy picture of himself and his lifestyle, she was impressed and a romantic relationship developed between two, from September, 2018.

4] The longish FIR would give the details of the amount invested by the complainant with the Applicant who was a Proprietor of a Partnership firm, styled as Krish Infosystem Pvt. Ltd., in Mumbai alongwith accused No.2. She was assured of returns of 16% to 18% and on satisfying all the bonafides she continued to invest into Krish Infosystem Pvt. Ltd. details of the said amount are given alongwith the complaint in the form of table A.

The complainant narrate that for this investment, she borrowed money from her friends and acquaintances, but the complaint do not refer to any material to support the assertion.

5] The complainant has further averred that she was hesitant in investing huge amount, but the Applicant persuaded her to do so for

securing her future and it is alleged that, he promised to solemnise marriage soon and this resulted in investments, indicated in table A accompanying to the complaint.

Apart from this, it is also alleged that jewellery worth Rs.1.04 crores in respect of which valuation report has been placed on record was also given to the Applicant, and it is mentioned that though she was persistent in getting her jewellery back, there was no response from the Applicant's end.

The allegation in the complaint, including the money and jewellery she has been duped to the extent of more than Rs.5 Crores. As far as the sexual relationship is concerned, it is specific statement of the complainant that her physical intimacy was based on the promise of marriage and was not out of her free will and consent.

6] In the nature of accusations, the investigating machinery was set into motion and the Applicant came to be arrested on the very next day, on which the complaint was lodged and on completion of investigation charge-sheet is also filed.

7] The learned counsel Mr.Chaudhry for the Applicant makes a specific statement that there is no denial that certain amount was invested by the complainant in the business concern of the present Applicant and his partner, but according to him, sum of Rs.51 Lakhs has been repaid by the Applicant and sum of Rs.75 Lakhs has been assured to pay by Accused No.2, who is partner in the firm Krish Infosystem Pvt. Ltd. Learned counsel for the Applicant would submit that the Applicant has also spent a huge amount on the travelling and affluent lifestyle of the complainant, which they enjoyed when they travelled entire world together. He state that a whopping sum has been spent by him.

8] If the complaint is perused it can be seen that the relationship between duo commenced in July 2018 and apart from the proximity as between a man and woman, they shared a business relationship. The investment of amount continued till 03.07.2019. As per the accusations, jewellery being taken into possession by the Applicant was mortgaged to secure some loan obtained by him, in December, 2019. The physical relationship between them continued till July, 2020. As per version of the complainant, the complaint came to be lodged on 14.06.2021. There is no plausible explanation in the complaint about the delay, when the accusations are that she herself and her daughter have been cheated of Rs.3.69 Crores and interest at the rate of 18% is claimed against the said amount, alongwith the jewellery of 1.5 Crores being taken by the applicant.

9] On perusal of the complaint as well as entire material compiled in the charge-sheet, I have no hesitation in holding that the physical relationship between the two was consensual and even the complainant has admitted so in the complaint.

As far as dispute regarding investment of money is concerned, the Applicant need not be incarcerated further as the submission of the learned counsel for the Applicant is that he had tried his level best to repay some cash amount and since he is incarcerated for last more than a year or so, he is not in a position to repay the amount. In any case, looking to the grievance of the complainant, it cannot be said that offence under Section 420 of the Indian Penal Code is made out as the intention to cheat from inception has not surfaced from the material compiled in the charge-sheet. As far as Section 403 of the Indian Penal Code is concerned, it will be alongwith Section 420 which invite maximum punishment of 2 years imprisonment. Accusation under

Section 417 of the Indian Penal Code would invite maximum penalty of imprisonment upto 1 year or with fine, on conviction, hence, the Applicant cannot be kept confined waiting the trial.

This, however, subject to condition that the Applicant shall not establish any contact with the complainant, or pressurize her or her daughter and indulge with any such attempt would result in depriving him of his liberty.

It is made clear that the observations made above are restricted for determination of the present application and the trial Court shall in no manner be influenced by the above observations.

Hence, the following order :

(a) Application is allowed.

(b) Applicant – Dilip Kesarsingh Rajput shall be released on bail in connection with C.R.No.208 of 2021 registered at Malabar Hill Police Station (Sessions Case No.680/2021) on furnishing P.R. bond to the extent of Rs.50,000/- with one or more sureties of the like amount.

Cash bail is permitted for a period of four weeks.

(c) 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 and should not tamper with evidence.

(d) The Applicant shall regularly attend trial, on every date, unless he is exempted.

(e) The Applicant shall not travel abroad without prior permission of the Sessions Court.

[BHARATI DANGRE, J]