

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.766 OF 2022

Gita Shyam Parmar ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Akhilesh Singh, for the Applicant
Mrs. Geeta Mulekar, APP for the State.
Mr. Shriram Bhosale, Kasturba Marg police station present.

CORAM : N. J. JAMADAR, J.

DATE : MAY 11, 2022
(VACATION COURT)

P.C.:

1. The applicant, who is arraigned in C.R. No.155 of 2018 registered with Kasturba Marg police station, Mumbai has preferred this application for enlarging her on bail.

2. The applicant and co-accused Indrabahaddur Singh, Ramkrushna Yadav, Jitendrabahaddur Singh, Shridhar More and Amrit Sharma are being prosecuted for the offences punishable under sections 120-B, 419, 420, 464, 465, 467, 468, 471 read with 34 of the Penal Code for having committed cheating by forgery and for having forged a memorandum of understanding professing to transfer the house property i.e. Laxmi Niwas situated at Plot No. 14, CTS No. 96, 96/1 and 96/2, Survey No. 11, Pahadi Eksar,

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Jayprakash Nagar, Goregaon (E), Tal. Borivali, Mumbai 63 by impersonating the original holder Smt. Kashibai Samant.

3. The indictment against the applicant is that, she impersonated Kashibai Samant, in pursuance of the criminal conspiracy entered into by her and the co-accused. The first informant Ujaskumar Patel was thus induced to part with a sum of Rs. 40,51,000/-. The applicant and co-accused came to be arrested. The learned counsel for the applicant submits that the principal accused Indrabahaddur Singh and all the co-accused have been enlarged on bail. The applicant is an innocent lady. She was unaware of the criminal design of the co-accused.

4. The learned counsel further submits that the applicant had not received a major part of the amount of which the first informant was deceived to part with. Yet, without prejudice to her rights and contentions, the applicant is ready to deposit a sum of Rs. 3,82,000/-, which was credited to the account of the applicant, in this Court.

5. The learned APP resisted the application on the ground that the applicant had impersonated the original holder Kashibai

Samant. Thus, the claim of the applicant that she is innocent does not merit countenance. It was further submitted that the antecedents of the applicant reveal that the applicant had been on the wrong side of the law, on multiple occasions, and three offences have been registered against the applicant. In the circumstances, according to learned APP, the applicant does not deserve to be enlarged on bail.

6. From the perusal of the material on record, especially the report under section 173 of the Code of Criminal Procedure and the documents annexed with it, it becomes evident that a specific role has been attributed to the applicant of having impersonated the original holder of the property. Yet, the allegations of inducing the first informant to part with huge amount are primarily against the co-accused Indrabahaddur Singh, Ramkrushna Yadav, Jitendrabahaddur Singh, Shridhar More and Amrit Sharma. The co-accused have already been enlarged on bail.

7. The learned Sessions Judge noted the fact that the co-accused have been enlarged on bail. However, since the co-accused Indrabahaddur Singh has deposited the entire amount received by him, in the opinion of the learned Additional Sessions Judge, the

accused Indrabahaddur's case stood on a different footing. Thus on the ground of parity, according to the learned Additional Sessions Judge, the applicant was not entitled to be enlarged on bail.

8. The applicant has now offered to make a deposit of a sum of Rs. 3,82,000/- without prejudice to her rights and contentions. The investigation is complete for all intent and purpose. The applicant appears to have roots in society. In the backdrop of the nature of allegations, the possibility of tampering with evidence and threatening the witnesses appears to be remote. Since, the co-accused have been enlarged on bail, albeit upon making the deposit of the amount which they had received, I do not find any justifiable reason not to extend the same dispensation to the applicant. The apprehension on the part of the prosecution can, however, be taken care of by imposing appropriate conditions. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant shall deposit a sum of Rs. 3,82,000/- in the Court of learned Magistrate within a period of one week. The deposit of the aforesaid amount shall, however, be without prejudice

to the rights and contentions of the applicant.

3] Subject to deposit of the aforesaid amount, the applicant be released on bail in C.R. No.155 of 2018 registered with Kasturba Marg police station, Mumbai for the offences punishable under sections 120-B, 419, 420, 464, 465, 467, 468, 471 read with 34 of Indian Penal Code, 1860 upon furnishing a P.R Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount to the satisfaction of the learned Magistrate.

4] The applicant be released on cash security in lieu of personal surety of Rs. 25,000/- for a period of three weeks.

4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to any of the prosecution witnesses.

5] The applicant shall furnish, on an affidavit before the learned Magistrate, her current address and the cell phone number, also incorporating therein an undertaking to keep the same updated in the event of any change.

6] The applicant shall not leave the country without prior permission of the learned Magistrate.

7] The applicant shall regularly attend the proceeding before the learned Magistrate.

(N. J. JAMADAR, J.)