IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 724 OF 2022
WITH
INTERIM APPLICATION NO. 3566 OF 2022

Hemanti Deepak Kulkarni ...Applicant
Versus
The State Of Maharashtra ...Respondent

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Mr. Samir Vaidya a/w Dwyani Dhawale, Advocate for the Applicant.

Mr. A. A. Palkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st OCTOBER, 2022

PER COURT:

1. The applicant is arrested on 25.05.2019 in connection with C.R. No. 156 of 2018 registered with Shivajinagar police station, Pune for offence punishable under Sections 406, 409, 420 read with 34 of the Indian Penal Code and Section 74(2) of Maharashtra Value Added Act, 2002 (VAT). Investigation is completed and charge-sheet is filed.

2. Case of the prosecution is that the accused was director of DSK Developers Ltd. Amount of VAT was recovered while selling flat. It was incumbent upon them to

deposit VAT with VAT Tax Department of Government of Maharashtra. During the period from 2006 to 2009 they recovered amount of VAT from the sale of flat of Rs.13,06,99,503/- but did not deposit the same treasury. Hence, FIR was registered against them. The accused No.1 Dipak Kulkarni is the chairman and Managing Director of DSK Developers. The accused No.3 Shirish Kulkarni was director of the said company. The accused No.1 is the husband and accused No.3 is the son of applicant.

3. Learned advocate for the applicant submitted that the applicant is a lady. She is in jail from 27.05.2019. She was also arrested in MPID Case No.347 of 2017 registered with Shivajinagar Police station and this Court had granted bail vide order dated 17.08.2021 on the ground that she had not played active role. Co-accused also impleaded as accused in this case. Considering the role played by applicant in the said crime, it was also observed that the accused No.1 therein is the main accused and the applicant is wife of accused No.1 in the said case. Considering the fact that the applicant is a lady. She was in custody from 3 and half years and aged around 60 years.

4. Learned APP submitted that misappropriation of VAT amount is to the tune of Rs. 13 crores. The applicant is involved in one more case viz. C.R. No. 347 of 2017. The co-accused would claim parity in the event bail is granted to applicant. Huge amount of VAT tax is misappropriated by accused, hence bail cannot be granted to the applicant.

5. The case of as stated herein above, the applicant was director of the said company and while granting bail to the applicant in the other case i.e. C.R. No. 347 of 2017. It was considered that the prime role was played by other accused and that the applicant is a lady. Apparently, accused No. 1 is the chairman and accused No.3 is the director. They are father and son. The applicant is wife of accused No.1. Her role can be distinguished. She is in custody from the date of arrest. She is aged around 61 years. She was not the main person actively conducting affairs of company. Thus, considering the role of the applicant and for the reasons stated herein above, bail can be granted to the applicant.

ORDER

(i) Criminal Bail Application No.724 of 2022 is allowed;

(ii) The applicant is directed to be released on bail in connection with C.R. No. 156 of 2018 registered with Shivajinagar police station, Pune on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(iii) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.50,000/- for a period of eight weeks in lieu of surety.

(iv) Criminal Bail Application with Interim Application stand disposed of accordingly.

(PRAKASH D. NAIK, J.)