

PMB

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

Digitally
signed by
PRADNYA
MAKARAND
BHOGALE
Date:
2022.12.22
18:43:31
+0530

**BAIL APPLICATION NO.1750 OF 2021
WITH
INTERIM APPLICATION NO.3568 OF 2022
WITH
INTERIM APPLICATION NO.1487 OF 2021**

AMIT KRISHNAKUMAR MISHRA ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.1749 OF 2021
IN
BAIL APPLICATION NO.1750 OF 2021**

M/S. LANDMARK LIFESTYLE CARS
PRIVATE LIMITED ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Vinod Kashid a/w Mr. Anil Wagh i/b. A & S Jurisprudencia
for applicant.

Ms. A. A. Takalkar, APP for State.

Mr. Rohan Sonawane for first informant in IA/1749/2021.

Mr. Vinod Vasave, API, Worli Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 21, 2022.

P.C. :

- 1.** Heard learned counsel for the parties.
- 2.** This is an application for bail by the applicant-Amit Krishnakumar Mishra in connection with C.R. No.17 of 2020 dated 23/01/2020 registered with Worli Police Station, under Sections 408, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860.
- 3.** The period of commission of the offence is from 05/11/2016 to 23/09/2019. The applicant was working as a Senior Accounts Manager with Landmark Lifestyle Cars Private Limited. In brief, it is alleged that the booking amounts by the customers which were paid in account of the Company which were not reclaimed/refunded, illegally came to be transferred by the applicant in the account of the relatives of the applicant. It is alleged that the applicant has misappropriated the amount to the tune of over Rs.1 Crore. According to learned counsel for the applicant his liability is Rs.57 Lakhs. I am not entering into that controversy.
- 4.** Learned counsel for the applicant submits that the

applicant is willing to repay the amount of Rs.57 Lakhs without prejudice to the rights and contentions of the complainant. The complainant has already instituted a Civil Suit bearing No.589 of 2021 against the applicant for recovery of an amount of Rs.40 Lakhs. According to learned counsel for the applicant, the valuation of the property which is the subject matter of the suit is approximately Rs.1.5 Crores. According to learned counsel, the claim of the applicant, if justified, is well secured. Learned counsel for the applicant, on instructions of the applicant and his brother-Ashwin Mishra, who is present in the Court, submits that they will not deal with or create any third party interest in the suit property and the said property will be utilised for settling the claim of the complainant. Statement made is accepted. Learned counsel for the applicant submits that once the applicant is released on bail, he would make every endeavour to satisfy the claim of the complainant by disposing of the suit property and subject to the orders that will be passed in the said suit. Needless to mention that any application that would be made by the complainant in the

said suit shall be dealt with on its own merits and in accordance with law. The statement of learned counsel for the applicant on instructions of the applicant is accepted as an undertaking to this Court.

5. An affidavit dated 15/12/2022 has been filed by the applicant which is taken on record. The applicant has stated that an amount of Rs.7,08,346/- will be handed over by Demand Draft dated 13/12/2022 and the same will be deposited in the Registry within three days from today. Learned counsel for the applicant has no objection if the complainant withdraws this amount of Rs.7,08,346/-. The said amount is allowed to be withdrawn by the complainant. The office to permit withdrawal of the said amount by the complainant.

6. The affidavit further mentions that amount of Rs.9,32,981/- has been freezed in the various accounts of the applicant and his family members. The statement made in the affidavit that the second installment of Rs.10 Lakhs will be paid to the complainant within a period of two months and third installment of Rs.40 Lakhs will be paid

within a period of six months from the date of the release of the applicant to the respondent no.2 as per the schedule mentioned in the affidavit is accepted as an undertaking to this Court.

7. Learned counsel for the complainant submits that the said amount will be accepted without prejudice to the rights and contentions.

8. So far as paragraph 6 of the affidavit is concerned, learned counsel for the applicant seeks leave to delete the said paragraph. It is for the applicant and the complainant to file appropriate terms before the Competent Court.

9. The applicant is in custody since 29/07/2020. It has been more than 2 years and 4 months that the applicant is in incarceration and there is no chance of the trial commencing any time soon. Considering the stand taken by the applicant in the affidavit, the applicant deserves to be released on bail. Hence, the following order :-

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant-Amit Krishnakumar Mishra shall be released on bail in connection with C. R. No.17 of

2020 registered with Worli Police Station, on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(iv) The applicant shall report to the concerned Police Station once in a month on every Monday between 11.00 a.m. and 1.00 p.m.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(vi) The statements made in the affidavit are accepted as an undertaking to this Court. The applicant to comply with the statements made in the affidavit-cum-undertaking.

(vii) In the event there is breach, it is open for the complainant or the prosecution to apply for cancellation of bail.

10. The Bail Application is disposed of.

11. Interim Applications are also disposed of.

(M. S. KARNIK, J.)