

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 99 OF 2022

Digitally
signed by
VINA
ARVIND
KHADPE
Date:
2023.12.19
17:58:28
+0530

Suryakant Baliram Pol

....Applicant

Versus

State of Maharashtra

....Respondent

Mr. Amin Solkar a/w Ms. Faiza Gawandi i/b. Ms. Shyamrishi Pathak
for the Applicant.

Ms. P. N. Dabholkar, APP for the Respondent – State.

PI Ranjit Dorkar, Kalyan Taluka Police Station present.

CORAM : G. A. SANAP, J.

DATE : 18th DECEMBER, 2023.

P.C. :

1. The applicant / accused has made this Application for bail under Section 439 of the Criminal Procedure Code, 1973 in Crime No. I-199 of 2021 registered with Kalyan Taluka Police Station, Thane District (Special Case No.136 of 2021) for the offences punishable under Sections 420, 406 r/w. Section 34 of the Indian Penal Code, 1860 and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 (for short 'MPID Act').

2. Heard the learned advocate for the applicant / accused, the learned APP for the respondent – State.
3. Perused the record and proceedings.
4. Learned advocate for the accused submitted that the accused is ready to deposit Rs.30 Lakhs immediately. Learned advocate further submitted that the accused is ready to deposit the balance amount of Rs.67 Lakhs within six months from the date of his release from the jail and for that purpose the accused is ready to furnish an undertaking. Learned advocate submitted that in this case, Section 3 of the MPID Act was wrongly invoked. It is further submitted that even if Section 3 of the MPID Act is made applicable, the accused is possessing the immovable properties and the same can be attached and sold as provided under Section 4 of the MPID Act. Learned advocate submitted that the accused has been in jail for about 2 & 1/2 years. Learned advocate submitted that charges have not been framed and as such the possibility of completion of trial in the near future is very bleak. Learned advocate submitted that subject to appropriate conditions, the applicant / accused may be released on bail.
5. Learned APP submitted that the investigating officer has moved a proposal to the Collector for initiation of proceedings for

attachment of the property, but for want of appointment of authority, the said proposal could not be taken to its logical conclusion. Learned APP further submitted that the scope of Section 3 of the MPID Act is very wide and the accused would be covered by the provisions of Section 3 of the MPID Act. Learned APP further submitted that if this Court is inclined to grant bail to the accused, then the appropriate conditions in terms of the statement made by the learned advocate for the applicant be imposed.

6. The accused is ready to deposit Rs.30 Lakhs. His wife has brought the Demand Draft of Rs.30 Lakhs. The accused is also ready to furnish an undertaking to pay the balance amount that is Rs.67 Lakhs within six months by disposing his other properties. It is seen that the accused has been in jail for almost three years. In this case, charges have not been framed and as such the possibility of completion of trial in the near future is very bleak. As far as Section 3 of the MPID Act is concerned, I have my doubts about its applicability. Even if this aspect is considered in favour of the prosecution, that alone may not stand in the way of the accused to grant him bail.

7. Incarceration for an indefinite period of time without any progress in the trial, directly infringes the basic right of the accused.

Speedy trial is right of the accused. It cannot be denied to him. The prosecution has not placed on record any material to indicate that for one reason or other, the trial could not be commenced. The accused has shown his *bona fides* by keeping the Demand Draft of Rs.30 Lakhs ready for deposit. In the facts and circumstances, in my view, further incarceration of the accused is neither necessary nor warranted. The apprehension put forth by the learned APP can be taken care of by imposing appropriate conditions. Hence, the following order:

ORDER

- i. Criminal Bail application is hereby allowed.
- ii. Applicant/accused by name Suryakant Baliram Pol, be released on bail in Crime No. I-199 of 2021 registered with Kalyan Taluka Police Station, Thane District (Special Case No.136 of 2021) for the offences punishable under Sections 420, 406 r/w. Section 34 of the Indian Penal Code, 1860 and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999, on his executing PR bond in the sum of Rs.50,000/- with one or two surety in the like amount.
- iii. Applicant/accused is allowed to deposit Rs.30 Lakhs by the Demand Draft in the Registry of this Court immediately.

- iv. Applicant/accused shall furnish an undertaking within a week from the date of his release from the jail to the effect that within six months he will deposit the balance amount of Rs.67 Lakhs with the Registry of this Court.
- v. Applicant/accused shall not directly or indirectly tamper with prosecution evidence and/or pressurize or threaten or induce prosecution witnesses.

8. It is made clear that observations made herein above be construed as expression of opinion only for the purpose of granting bail and the same shall not in any way influence the trial in other proceedings.

[G. A. SANAP, J.]