

AGK

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

BAIL APPLICATION NO.100 OF 2023

Kiran Balaso Mane ... Applicant

V/s.

The State of Maharashtra ... Respondent

WITH

BAIL APPLICATION NO.1927 OF 2023

Ashish Anil Chavan ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Ashok Mundargi, Senior Advocate i/by Mr. Jayant Bardaskar for the applicant in BA/100/2023.

Mr. Amol Deshpande with Mr. Amol Alman for the applicant in BA/1927/2023.

Mrs. Rutuja Ambekar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 1, 2023

RC.:

1. Leave to amend to correct the name of the applicant in Bail Application No.100 of 2023. Amendment to be carried out forthwith.

2. This is an application under Section 439 of the Criminal Procedure Code, 1973 seeking bail in relation with C.R. No.251 of 2021 registered with Bundgarden Police Station for offence under

Sections 465, 467, 468, 471, 420 read with Section 34 of the Indian Penal Code, 1860.

3. According to prosecution, complainant is the Administrative Officer in B.J. Medical College, Pune. The college has bank account with Bank of Baroda, Pune Branch bearing A/c. No.98260100006669. On 8 October 2021, the accountant, Prakash Bhillare informed the complainant that an amount of Rs.25 lakh was deducted from the said bank account on 6 October 2021. It is also informed that the said transaction was not done by the college and, hence, the complaint was forwarded to the bank.

4. On inquiry, it is learnt that on 6 October 2021, college informed the bank that the cheque should not be honored and refused to give confirmation in respect of cheque bearing No.000290 amounting to Rs.25 lakh. It is alleged that even after said objection, amount of Rs.25 lakh was transferred in the account of one Vishwas Patil. It is stated that on 16 October 2021, entire amount of Rs.25 lakh was deposited in the bank account of the college by three different transactions. It is alleged that on verifying the passbook, it was revealed that on 11 October 2021 by three different cheques bearing No.000264, 000265 and 000278 each amounting to Rs.25 lakh, total Rs.75 lakh, was transferred from the bank account of the said college into accounts of three different persons. It is also revealed that on the same day, amount of Rs.75 lakh was refunded/re-deposited in the bank account of the college.

5. It is alleged that the college has never received cheque book

bearing cheque Nos.000261 to 000290. Therefore, it is alleged that someone with the intention to cheat the college, with the help of forged cheques, stamps and signatures have attempted to transfer the amount of Rs.25 lakh. On the basis of said allegations, first information report came to be registered.

6. Both the applicants came to be arrested on 6 July 2022. Applications filed by both the applicants before learned Sessions Court came to be rejected by orders dated 26 August 2022 and 16 January 2023, respectively.

7. Learned Senior Advocate for the applicant submitted that the applicant in Anticipatory Bail Application No.100 of 2023 is doctor by profession. Cheques amounting to Rs.25 lakh which transferred the amounts in accounts of four persons have been re-deposited in the bank. The applicant was unaware about the fact that the cheques were fabricated and bogus. Accused No.3 is the person responsible for the offence. The applicant has neither made or used forged signature and seal of institution.

8. Per contra, learned APP submitted that main accused No.3 is absconding. Forged and fabricated seals are yet to be seized. There is sufficient material to indicate complicity of the applicants.

9. On perusal of the charge-sheet and material on record, it appears prima facie that the applicants persuaded Vishwas Patil to deposit cheque of Rs.25 lakh and received Rs.4 lakh by bearer cheques. Accordingly, applicants received two cheques of Rs.2 lakh each; however, on the same day Vishwas Patil received a call from Bank of India stating that the deposited cheque is forged and he

was called upon to re-deposit the amount. The applicants on 8 October 2021 re-deposited Rs.4 lakh in the account of Vishwas Patil and Rs.25 lakh was also deposited on 16 October 2021. The role attributed to the applicant in Anticipatory Bail Application No.1927 of 2023 is that he handed over cheques received from accused No.3 to Kiran Balasaheb Mane.

10. First information report is lodged on 27 October 2021. The charge-sheet is already filed. Investigation against the applicants is complete.

11. The applicants are in jail from 6 July 2022. Charges are yet to be framed. It is unlikely that the trial will commence in near future. Accused No.3 is absconding. There are no criminal antecedents to the discredit of the applicants. Therefore, the applicants deserve to be released on bail. Hence, following order:

- a) The applicants be released on bail in relation to C.R. No.251 of 2021 registered with Bundgarden Police Station for offence under Sections 465, 467, 468, 471, 420 read with Section 34 of the Indian Penal Code, 1860 on furnishing P.R. Bond in the amount of Rs.25,000/- each along with one or two sureties in the like amount;
- b) The applicants shall mark his presence with the concerned police station on first Saturday of every month till conclusion of trial;
- c) The applicants shall remain present before the Trial Court on each and every date unless specifically exempted by the Court;

- d) The applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court;
- e) The applicants shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- f) The applicants shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

12. Both the bail application stand disposed of in above terms.
No costs.

(AMIT BORKAR, J.)