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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 330 OF 2023

Hashim E. Kadar ...Applicant
V/s.
The State of Maharashtra ...Respondent.

WITH
INTERIM APPLICATION NO. 841 OF 2023

Mr. A.A. Mir for the Applicant.
Mrs. Veera Shinde, APP for the Respondent/State.
Mr. Aamir Shaikh for the Intervenor

CORAM : N.R. BORKAR, J.
DATE : 24.03.2023.

P.C. :

1. This is an application under Section 439 of Code of Criminal Procedure for bail.
2. The applicant came to be arrested in Crime No.144 of 2020 registered at Kharghar Police Station, Navi Mumbai for the offence punishable under Section 420 read with 34 of the Indian Penal Code.
3. I have heard the learned counsel for the applicant, the learned APP for the respondent - State and the learned counsel for the Intervenor.
4. The allegations against the applicant and other co-accused are of cheating. It is alleged that the applicant and other co-accused had promised the complainant to get him appointed as

dealer/distributor of Air-Conditioners of Panasonic company and on that pretext duped him to the tune of Rs.85 lakhs.

5. The wife of applicant has filed the Undertaking. For ease of reference same is scanned and reproduced below:

Coram:- M. R. Parkar, J.
Date:- 24/05/2023
Tribunal No. 1 of 2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO 330 OF 2023
IN
Crime No.0144 of 2021
U/s 420,,,34 I.P.C.

Hashim Ebrahim Kadar)
Room No.208, B Wing, Building)
No.2, Omera Park, Rani Sati)
Marg, Pathanwadi, Malad (E))
Mumbai-400 097) ... Applicant/Accused

Versus

The State of Maharashtra)
Through Kharghar Police Station)
Navi Mumbai) Respondent

May it please, Your Honour.

UNDERTAKING

I, Zeenat Arif Munshi W/of Hashim Ebrahim Kadar, Aadhar No.9369 1027 8941, age 43 years, Occupation - Housewife, residing at Room No.208, B Wing, Building No.2, Omera Park, Rani Sati, Marg, Pathanwadi, Malad (E), Mumbai-400 097, do hereby undertake as under :

.....2/-



-- 2 --

1. Total alleged claim of the First Informant is Rs.85,00,000/-. However this being a commercial transactions between the parties . After appointment of the franchise the Company of the Accused ESR Energy Self Reliance Pvt. Ltd, supplied goods worth Rs.90,74,229/- to M/s AaravEnterprises. The Copies of the Invoices are enclosed here with and marked as **Annexure No.1 Invoice No.ESR105BL/1017 Dated 23-10-2017** vide which Solar Air conditioner grid connected worth Rs.59,96,250/- supplied . In the similar manner vide **invoice No.2 dated 20-04-2018** Air conditions with grid connected worth Rs.30,77,970/- **Annexure No.2**

There is also statement of profit earned by the Company of the First informant Aarav Enterprises **Annexure No.3 Rs.3,62,800/-**

The First informant suppressed this facts and his alleged claim is of Rs.85,00,000/-.

2. We are leaving a claim of the Accused separate and adhered to the undertaking given by the Accused before this Hon'ble Court seeking pre-arrest bail that he will deposit sum of Rs.42,50,000/-

Out of this sum I wife of the Accused undertakes that I will be depositing sum of Rs.5,00,000/- either in this Court or in the Court or in the trial Court forth with and rest of the amount in the following manner.

....3/-

-- 3 --

Rs.10,00,000/- on or before 25th May-2023 And each monthly before 25th Day of the following month i.e. June - Rs.10,00,000/-, July -2023 Rs.10,00,000/- Rs.7,50,000/- on or before 25th August-2023.

I pray that this undertaking be taken on record and accordingly be accepted. I undertake to adhere by what has been stated and agreed.

I am aware that failing this undertaking I shall have to face the consequences of law.

For this act of kindness I shall remain grateful.

Solemnly declared at Mumbai
On this 23rd March, 2023.

Identified by me.

Zeenat Arif Munshi
Zeenat Arif Munshi
W/of Hashim Ebrahim Kadar

A.A. Mir
A.A. Mir

Advocate for the Applicant/ Accused. Before me



R. B. Gupta
R. B. GUPTA
B.Com., LL.B., Regd. No. 6091
NOTARY GOVT. OF INDIA
Room No. 68, 3rd Floor, Naraina Road,
S. P. Road, Worli (E), Mumbai - 400 027.
NOTED & REGISTERED
Sr. No. 69504 Page No. 7
Date 23 MAR 2023
23 MAR 2023

6. The applicant is in jail for about six months. There are no other criminal antecedents. Considering the overall facts and circumstances of the case and in view of the undertaking filed by the wife of the applicant, I am inclined to release the applicant on bail. In the result, the following order is passed.

ORDER

A] Bail Application is allowed.

B] The applicant be released on bail in C.R. No. 144 of 2020 registered at Kharghar Police Station, Navi Mumbai for the offence punishable under Section 420 read with 34 of the Indian Penal Code on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

C] The amount mentioned in the Undertaking shall be deposited before the trial Court. In case of breach of undertaking, the intervenor/complainant is at liberty to file an application for cancellation of bail.

7. The Interim Application for intervention does not survive and the same is disposed of.

[N.R.BORKAR, J.]