

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1013 OF 2023

Sunil Jagtiyani S/O Kishan Jagtiyani .. Applicant
Versus
The State of Maharashtra .. Respondent

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Ms. Kritika Agarwal for the Applicant.
Ms. P.N. Dabholkar, A.P.P. for the State/Respondent.
Mr. Deepak Sarode, API, MFC, Kalyan Police Station.

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CORAM: BHARATI DANGRE, J.
DATED : 28th JUNE, 2023

P.C:-

1. Heard the learned counsel for the applicant and the learned APP.
2. The second bail application is filed, the earlier being withdrawn on 20/09/2021, when I expressed my disinclination to entertain the application on merits.
3. The learned counsel for the applicant would press into service her right for speedy trial and she would submit that till date the charge is not framed in the subject CR and it cannot be said with certainty whether the trial would be concluded within a short period of time and therefore, when the investigation is complete and the charge-sheet is already filed which has crystallized the charges levelled against her client along with the co-accused, his wife, who is

already admitted to protection from arrest by the Sessions Court, even he deserves his release on bail.

4. I have perused the charge-sheet, which has charged the present applicant for committing an offence punishable under Sections 420 and 406 read with Section 34 of IPC.

The charge-sheet allege that the applicant has misguided the complainant on the ground for effecting purchases in an auction in respect of Poclain, Dumper, Tractor and he assured him that he would make this machinery available to him at a reasonable rate and would also arrange for the finance for its purchase. Based upon this assurance, it is the case of the prosecution that the complainant deposited a sum of Rs. 14,30,000/- in the account of Nimisha Enterprises i.e. in the name of the co-accused but, despite the amount being deposited he did not deliver the machinery and it is alleged that he has misappropriated the amount, which has resulted in invocation of Sections 406, 420, r/w 34 of IPC, along with the co-accused.

The learned APP would submit that the charges are serious in nature as one of the witness has also stated that he was also duped in a similar manner, by accepting a sum of Rs. 1,50,000/- by the present applicant. However, worth it to note that this witness has never approached the police station by filing any complaint.

5. The applicant came to be arrested on 19/12/2019 and since then he is incarcerated. Nearly 4 years have lapsed since his arrest and even the charge is not framed.

In the wake of the above scenario, since the trial will take its own time and considering the accusations levelled against the

applicant in the charge-sheet. Though the learned APP would vehemently oppose the application on the ground that there are antecedents to the credit of the applicant, I do not think merely because the case is under Section 420 registered against the applicant in the past and it is informed by the counsel for the applicant that in all such cases he is already released on bail, he should be incarcerated when the state has failed to discharge its obligation of putting him on trial and concluding the trial in an expeditious manner.

In the wake of the aforesaid, in my considered opinion, the applicant deserve his release on bail.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Sunil Jagtiyani shall be released on bail in connection with C.R.No. 604 of 2019 registered with Mahatma Phule Chowk Police Station, Kalyan on furnishing P.R. Bond to the extent of Rs.50,000/- with one or more sureties in the like amount.
- (c) 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.
- (d) The applicant shall mark his attendance in the concerned police station on first Monday of trimester between

3:00 to 5:00 p.m and he shall also attend the trial on regular basis.

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

(f) The applicant shall not indulge in any offence of cheating/forgery and upon his further indulgence, the prosecution is conferred with a liberty to seek cancellation of bail.

(SMT. BHARATI DANGRE, J.)