Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1323 OF 2023

Santosh Madhukar Dhumal ...Applicant

Versus

The State of Maharashtra and anr. ...Respondents

Mr. Nitin Sejpal, a/w Pooja Sejpal, for the Applicant.
Mr. R. M. Pethe, APP for the State/Respondent.
API Lokhande, Panvel Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 4th SEPTEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the parties.

2. This is an application for pre-arrest bail in connection with CR No.638 of 2022, registered with Panvel City Police Station, for the offences punishable under Sections 403, 420, 465, 467, 468, 470 and 471 of Indian Penal Code, 1860 ("the Penal Code").

3. The first informant is the wife of the applicant. The first informant had initially lodged a report against the applicant and the relatives of the applicant being CR No.477 of 2022 for the offences punishable under Sections 323, 406, 498-A, 500, 504 and 506 read with Section 34 of the Penal Code. It seems that the applicants were granted pre-arrest bail in connection with the said crime by the learned Additional Sessions Judge.

4. The first informant lodged instant FIR with the allegations that there was a joint account maintained by the first informant and the applicant with IDBI Bank and amounts were invested therein, in a fixed deposit. The first informant had independently maintained a fixed deposit of Rs.8,40,000/-. It transpired that the applicant had withdrawn the amounts from the said fixed deposit and transferred the same to the joint account. Likewise the LIC policy and other fixed deposit receipts in the name of the first informant, maintained with Bank of Maharashtra and IDBI Bank, were liquidated before maturity. The first informant was thus defrauded of an amount of Rs.21,00,000/-.

5. The notice issued to respondent No.2 – first informant is duly served.

6. None appears for respondent No.2 – first informant.

7. The learned Counsel for the applicant submitted that without prejudice to his rights and contentions, the applicant, pursuant to an order dated 3rd May, 2023 has deposited a sum of Rs.21,00,000/- in this Court.

8. The learned APP submits that the investigation is complete and charge-sheet has already been filed.

9. Evidently, the genesis of the offences is in the matrimonial dispute between the parties. The question as to whether the applicant had the mandate to operate the accounts would warrant adjudication. Since the applicant has already deposited the amount of which the first informant was allegedly defrauded, at this stage, further custodial interrogation of the applicant does not seem to be warranted. I am, therefore, inclined to allow the application.

10. Hence, the following order:

: O R D E R :

(i) In the event of arrest of the applicant in CR No.638 of 2022 and CR No.477 of 2022, registered with Panvel City Police Station, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(ii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any person acquainted with the facts of the case.

(iii) The amount of Rs.21,00,000/- deposited by the applicant in the Registry of this Court be transferred to the Court of Judicial Magistrate, First Class, Panvel.

(iv) On transfer of the amount, the learned Magistrate shall invest the same in an interest bearing account.

(v) The said amount shall abide the order which may be eventually passed by the learned Magistrate in the prosecution on the basis of the charge-sheet lodged in the subject crime.

(vi) Application stands disposed.

[N. J. JAMADAR, J.]