

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 133 OF 2020

Rajendra Daryavasingh Rajput ... Applicant

Versus

The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO. 1854 OF 2021

.....

Mr. Sanjev Kadam alongwith Mr. Sameer Mhatre and Mr. Prashant Raul for the Applicant.

Ms. Veera Shinde, APP for the State.

Mr. Mateen Shaikh alongwith Ms. Muskan Singh for the intervenor in IA-1854-2021.

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CORAM : N.R. BORKAR, J.

DATED : 9 FEBRUARY 2023

P.C. :-

. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant was arrested in Crime No. 222 of 2019 registered at Panvel City Police Station for the offence punishable under Section 420 of Indian Penal Code.

3. I have heard the learned Counsel for the applicant and the learned APP for the State.

4. On 14 July 2020, this Court passed the following order :

“ This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No.I-222 of 2019 dated 28th May, 2019 registered with Panvel City Police Station, Navi Mumbai under Section 420 of the Indian Penal Code.

2 Heard Ms. Madhuri, learned counsel appearing for the Applicant and Ms. Deshmukh, learned APP through Video Conferencing.

3 The record indicates that, by an earlier Order dated 30th June, 2020, passed by this Court (Coram:-Smt. Bharati Dangre, J.), the Applicant was directed to implead the first informant Shri. Vishal Pradipkumar Bhatnagar. The learned counsel for the Applicant submitted that, she has carried out necessary amendment in the Court record through e-filing and has also served copy of the amended Application to the said first informant. She further submitted that, an Affidavit of service in that behalf has also been filed. Despite service, none appears for the first informant.

4 It is the prosecution case that, the Applicant by representing the first informant that, he will make available a plot of land admeasuring 2750 sq.meters from CIDCO, bearing Dronagiri File No.1935, induced the informant to part with an amount of Rs.1 crore 68 lacs. It was subsequently revealed to the informant that, the said plot of land was in fact admeasuring 2100 sq. meters and not 2750 sq. meters. That, the Applicant neither made available the said plot to the first informant-Vishal Bhatnagar nor returned the amount accepted by him and defalcated the said amount. In the premise, the First Information Report has been filed under Sections 406, 420, 465, 467 and 468 of the Indian Penal Code. After completion of investigation, the police have submitted charge-sheet under Section 420 of the Indian Penal Code only.

5 Learned counsel for the Applicant submitted that, the Applicant is seriously desirous of settling the matter with the first informant namely Vishal Bhatnagar and intends to repay the entire amount accepted by him. She further submitted that, if the Applicant is granted temporary bail, the Applicant will make an endeavour to settle the matter once for all and is also intending to file proceedings for quashing of charge-sheet. The said statement is accepted.

6 As noted earlier, the offence alleged against the Applicant is

under Section 420 of the Indian Penal Code only. With a view to grant an opportunity to the Applicant to have an amicable settlement with the first informant, this Court is of the considered view that, the Applicant can be released on temporary bail for a period of 90 days and during the said period, the Applicant will make an endeavour to settle the matter with the first informant-Vishal Bhatnagar. Hence, the following order-

- a) Applicant shall be released on temporary bail for a period of 60 days in CR No.I-222 of 2019 dated 28th May, 2019 registered with Panvel City Police Station, Navi Mumbai, on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.*
- b) Applicant is permitted to furnish cash bail of Rs.30,000/- till he completes the procedure of furnishing local sureties.*
- c) Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.*
- d) Stand over to 22nd September, 2020.”*

5. The applicant has filed an Affidavit-cum-undertaking dated 12 January 2023, in which the applicant has stated thus :

“6. I state and submit that as stated above in any event I will be repaying the amount alleged in the FIR to the Respondent No.2 within six months from today and therefore this matter may be adjourned after six months for passing further orders.”

6. In view of the Affidavit-cum-undertaking filed by the applicant, the following order is passed :

- (i) Application is allowed.
- (ii) Interim order passed by this Court by order dated 14 July 2020 is hereby confirmed.
- (iii) The intervenor/complainant is at liberty to file an application for cancellation of bail, if the undertaking is breached.
- (iv) The Interim application for intervention stands disposed of.

(N.R. BORKAR, J.)