

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2526 OF 2022

Bhalchandra Ramakant Patkar ... Applicant

V/s.

State of Maharashtra ... Respondent

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Mr. Tanmay Karmarkar i/b. Mikhail Dey, Advocate for Applicant.
Mr. Amit A. Palkar, APP for Respondent-State.
PI – Sheshrao Shelke, Vakola Police Station present.

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CORAM : G. A. SANAP, J.

DATE : 31st OCTOBER, 2023

P. C:-

1. The Applicant/accused No.2 has made this application for bail in Crime No. 198 of 2019, registered at Samata Nagar Police Station, Mumbai, for the offence punishable under Section 465, 467, 468, 420 read with 34 of Indian Penal Code, 1860 (for short “IPC”) and Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999 (for short “MPID Act”).

2. Learned Advocate for the accused submitted that the accused in order to show his bonafides had expressed his willingness to deposit a sum of Rs.2,00,000/-. Learned Advocate pointed out that in order to show his *bonafides*, Applicant has deposited

Rs.2,00,000/- in the Trial Court. A photocopy of the said receipt has been placed on record which is marked as 'Annexure-A'. Learned Advocate submitted that the major role in the crime was played by accused No.1 Mohin Khan. Learned Advocate pointed out that the main accused Mohin Khan has been released on bail by learned Metropolitan Magistrate Court, Mumbai vide order dated 20.11.2019. Learned Advocate submitted that there is evidence on record to show that the entire amount was paid to accused no.2 and by informant and not directly to accused No.2. Learned Advocate submitted that considering the role played by the accused No.2 he is entitled to get the bail on the ground of parity. Learned Advocate submitted that Applicant/accused No.2 is ready to abide by the conditions that may be imposed by the Court.

3. Learned APP submitted that during the course of police custody, accused No.1 did not co-operate with the Investigating Officer and, therefore, the amount of misappropriation in this issue could not be recovered. Learned APP pointed out that the prosecution has already moved an application before the Trial Court for cancellation of the bail granted to accused No.1, considering his conduct as well as his involvement in the crime. Learned APP pointed out that after registration of the crime, accused No.2 had issued a cheque of Rs.4,50,000/- but the cheque was dishonoured.

Learned APP submitted that no case has been made out to release the Applicant on bail.

4. Perusal of the record would show that the main grievance has been made against the accused No.1. The investigation revealed that the amount was paid by the informant to the accused No.1. Some amount was paid in cash and some amount was paid by cheque. It is seen that not a single penny was recovered during the course of investigation. It appears that Investigating Officer while conducting the investigation did not show due diligence. It is pertinent to mention that all these facts might not have been brought to the notice of the learned Magistrate at the time of hearing of the bail application and therefore accused No.1 got the bail.

5. As far as accused No.2 is concerned, no major role has been attributed to him. The role attributed to him can be seen from the report lodged to the police station. The accused No.2 had issued a cheque to the informant of Rs.4,50,000/-. It is the case of accused No.2 that he was concerned in the crime to the extent of Rs.4,50,000/-. The accused in order to show his *bonafides* after making the statement before this Court, has deposited Rs.2,00,000/- in Trial Court.

6. In my view, the ground of parity is available to this accused. Similarly, the accused No.2 has shown his *bonafides* by depositing the said amount. In the facts and circumstances, further incarceration of the accused No.2 is not warranted. The apprehension put forth by the learned APP can be taken care of by imposing appropriate conditions.

7. Accordingly, I proceed to pass the following Order:

ORDER

- (i) Applicant - Bhalchandra Ramakant Patkar be enlarged on bail in Crime No. 198 of 2019 registered with Samata Nagar Police Station, Mumbai, on furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with solvent surety in the like amount.
- (ii) Applicant shall not in any manner tamper with the prosecution evidence.
- (iii) Applicant shall not contact prosecution witnesses or any person directly or indirectly concerned with this case. Applicant shall co-operate the Court in the disposal of the trial.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

(G. A. SANAP, J.)