



PMB

21.appln.142-23.odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.142 OF 2023

TUSHAR ANIL THAKKAR	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Adv. Rushit P. Thakkar for the applicant.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 20, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for modification/setting aside the pre-condition of depositing amount of Rs.18,00,000/- for bail as directed by the learned 67th Metropolitan Magistrate Court, Borivali, Mumbai in Bail Application No.1712 of 2023 dated 14.07.2023. The accusations against the applicant is in respect of an offence punishable under Sections 420, 406 of the Indian Penal Code for which he was arrested on 19.06.2023. It is alleged that he received an amount of Rs.23,50,000/- via net banking from the informant on

account of heavy deposit of flat which was to be rented out. The flat was already mortgage to the Union Bank of India. The bank had taken the possession of the flat. The victim thus did not receive the possession of the flat which was rented or the amount which has been transferred in favour of the applicant.

3. The flat in question has been sold by the bank in auction and the balance amount of Rs.19,64,000/- has been freezed during the investigation in present C.R. There are matrimonial disputes the applicant has with his wife. The applicant's wife has made an application before the Family Court for appropriating some portion of the amount which has been freezed towards the arrears of maintenance. I may not be understood to have expressed any opinion in respect of the Family Court matter.

4. In my opinion, in the facts of the present case, the direction of the trial Court to deposit an amount of Rs.18,00,000/- as a condition for enlarging the applicant on bail could not have been imposed. The amount in respect of the present C.R. has been secured by the sale of the flat as

the balance amount in the account of the applicant is freezed by the investigating agency.

5. Without prejudice to the rights and contentions of the applicant, learned counsel for the applicant on instructions voluntarily submits that within a period of two months from today a sum of Rs.2,50,000/- will be deposited by the applicant in the trial Court. Statement is accepted. In this view of the matter, the condition of depositing the amount of Rs.18,00,000/- in the operative part of the order dated 14.07.2023 in Clause (i) is quashed. The other conditions imposed in the order dated 14.07.2023 granting bail to the applicant shall remain intact. The applicant shall abide by the statement made and recorded hereinbefore.

6. Learned APP while opposing the application submitted that the applicant has a remedy of Revision. However, in the facts of the present case and also considering that the applicant has already been enlarged on bail which he could not avail of as a result of imposition of the aforesaid condition, I thought it appropriate to entertain the present application instead of relegating the applicant to the remedy

of Revision.

7. The application is disposed of.

8. The parties to act on an authenticated copy of this order.

(M. S. KARNIK, J.)