

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

BAIL APPLICATION NO.2552 OF 2022

Sumit Mukund Nagarale @

Sumit Kamal Punjabi

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Aniket Nikam i/b. Mr. Amit Icham for the Applicant.

Ms P.N. Dabholkar, APP for the Respondent -State.

CORAM: G.A. SANAP, J.

DATED: 5th DECEMBER, 2023.

P.C:-

1. The Applicant-accused No.4 has made this application for bail in C.R. No.1 of 2022 registered with DCB CID Unit-VII, Crime Branch, Mumbai, Bhadup Police Station for the offences punishable under Sections 120-B, 420, 465, 467, 468 and 471 r/w 34 of the IPC.

2. Heard Mr. Aniket Nikam, learned Advocate for the accused No.4 and Ms P.N. Dabholkar, learned APP for the Respondent -State. Perused the records and proceedings.

3. Learned Advocate for the accused No.4 submitted that

amount of cheating involved in this case is Rs.30,000/- and the same is recovered during the course of the investigation. The learned Advocate took me through the record and pointed out that this amount of Rs.30,000/- was recovered from accused No.1-Bhaskararao. Learned Advocate submitted that accused No.1-Bhaskararao has been released on bail by this Court (Coram: Shivkumar Dige, J.) vide order dated 26/09/2023. Learned Advocate submitted that the role attributed to accused No.1-Bhaskararao is more serious than the role attributed to accused No.4. It is submitted that the ground of parity is available to accused No.4. Learned Advocate submitted that forgery of documents is the main allegation/act attributed to this accused. Learned Advocate submitted that those forged documents even as per the case of the prosecution were not used in commission of this crime. The learned Advocate submitted that accused No.4 is in jail for more than a year and a half. It is pointed out that considering the role attributed to him, his further incarceration is not warranted. It is submitted that he is ready to abide by the conditions that may be imposed by the Court.

4. Learned APP submitted that the accused No.4 has criminal antecedents and on that ground alone he is not entitled to get bail. Learned APP further submitted that the documents were forged with the intention of commission of crime. Learned APP submitted that the role of accused Nos.1 and 4 cannot at all be compared. Learned APP submitted that the possibility of tampering with the prosecution evidence cannot be ruled out, if he is enlarged on bail.

5. Accused No.1-Bhaskararao, who, as can be seen from the First Information Report played a prominent role in the crime, has been released on bail. The amount of Rs.30,000/- was accepted from the Informant by accused No.1. It is not the case of the Informant that she personally met accused No.4. As far as accused No.4 is concerned, the investigation revealed that he forged the documents for the purpose of commission of crime. The question is whether this would be sufficient to deny the bail to him. In my view, on this ground the bail cannot be denied. In this case, the amount was accepted by accused No.1. The role played by him is more serious than the role played by accused No.4. Ground of parity is

therefore available to accused No.4. After investigation charge-sheet has been filed. Considering the nature of crime, the amount involved in the crime and the role attributed to this accused, bail cannot be denied to him. It is to be noted that in the earlier two crimes registered against him he was on bail. It is to be noted that the accused cannot be denied bail on the basis of criminal antecedents, provided he is otherwise entitled to get the bail in the crime in question. In this case charges have not been framed. The trial may take its own time. The possibility of completion of trial in near future is very bleak.

6. In the facts and circumstances, in my opinion further incarceration of the accused is neither warranted nor necessary. The apprehension put forth by the learned APP can be taken care of by imposing appropriate conditions. Accordingly, I proceed to pass the following order:-

ORDER

- (i) The Criminal Application is allowed;
- (ii) The Applicant be enlarged on bail in Crime No.01 of 2022 registered with DCB CID-VII, Bhandup Police

Station, District-Mumbai, on executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

- (iii) The Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11.00 a.m. to 2.00 p.m. till framing of charge;
- (iv) The Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer;
- (v) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witness or any person concerned with the case;
- (vi) The Trial Court shall decide the said case on its own merits, in accordance with law uninfluenced by the observations made in this order.

7. The application stands disposed of in aforesaid terms.

(G.A. SANAP, J.)