



PMB

947.wp.3140-23.doc

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

WRIT PETITION NO.3140 OF 2023

PARAG DHARMESH DUTT

..PETITIONER

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Rammani Upadhyay for the petitioner.

Mr. N. B. Patil, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 15, 2023.

P.C. :

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

2. The trial Court enlarged the petitioner on bail in respect of an offence punishable under Sections 452, 420, 406 of the Indian Penal Code. The petitioner was arrested on 13.07.2023. According to the prosecution the accused rented out his flat to the informant on heavy deposit of Rs.10,00,000/- and later on received an amount of Rs.10,00,000/- as advance for the sale of said flat to the informant. The accused cheated the informant for an

amount of Rs.20,00,000/- and also took the possession of the said flat. The trial Court in paragraph No.6 while enlarging the petitioner on bail recorded thus :-

“6. Both sides admitted the existence of Leave and License Agreement between accused and informant. Likewise receipt of Rs.5 Lac through bank has also been admitted by both sides. Further accused has made statement that he would be ready to pay Rs.6,45,000/- a due amount which he is owing to complainant. Ld. Advocate for the accused sought some time to deposit the aforesaid amount. This is not a stage to record finding upon facts of the case in hand. Therefore avoiding further discussion on the merit of the case, certainly, in such circumstances, balance of justice could be done by passing conditional bail depositing money by giving some time to accused for compliance. Therefore, in circumstances conditional bail to the accused subject to deposit of Rs.6,45,000/- (Rs. Six Lac Forty Five Thousand) within the period of one month from the date of passing this order in the court would meet ends of justice.”

3. The trial Court passed an order directing the petitioner to deposit an amount of Rs.6,45,000/- within a period of one month from the order passed by the trial Court, failure of which the bail will be automatically cancelled.

4. Learned counsel for the petitioner submitted that in view of the law laid down by the Supreme Court, the trial Court was not justified in imposing a condition regarding

depositing an amount of Rs.6,45,000/-, and thereby recording that failure of which the bail will be cancelled automatically.

5. The order dated 19.07.2023 has been acted upon. In fact an amount of Rs.1,45,000/- has already been deposited. Now the grievance is made that such a condition is onerous. Another submission made by learned counsel for the petitioner is that before the Sessions Court no statement was made that the petitioner is ready to pay the amount of Rs.6,45,000/-. Learned counsel for the petitioner says that he has filed Criminal Revision Application No.218 of 2023 before the Sessions Court. The relief prayed for in this writ petition is to direct the Sessions Court to expedite the hearing of Criminal Revision Application No.218 of 2023.

6. Learned APP opposed the application.

7. In the facts of the present case, considering the relief sought, in the interest of justice, till the Criminal Revision Application No.218 of 2023 is decided, the bail already

granted by the learned 67th Metropolitan Magistrate Court at Borivali in Bail Application No.1844 of 2023 shall not be cancelled. The Criminal Revision Application No.218 of 2023 is expedited. The same shall be decided on its own merits in accordance with law.

8. The Writ Petition is disposed of.

(M. S. KARNIK, J.)