

Shabir @Ahemad Husain Shaikh ...Applicant
vs.
The State of Maharashtra ...Respondent

CORAM : N. J. JAMADAR, J.
DATE : OCTOBER 6, 2023

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

2. This is an application for pre-arrest bail in connection with C.R. No.0178 of 2023, registered with Nehru Nagar Police Station, Mumbai for the offences punishable under Sections 420, 464, 465, 467, 468, 471 read with 34 of the Indian Penal Code, 1860 (“the Penal Code”).

3. The first informant lodged a report with the allegations that the co-accused Shaheen Shaikh represented to her that she would secure a MHADA tenement for the first informant. She was induced to part with a sum of Rs.86,000/- initially. On 26th February 2015, the co-accused allegedly brought the applicant to the first informant's house and represented that he was an Officer of

MHADA. The first informant was induced to part with four cheques drawn on Hindustan Co-Operative Bank. Certain documents were delivered to her to make her repose confidence in them. Neither the tenement could be allotted nor the amount was refunded. Having realized the fraud, the first informant lodged the report.

4. The learned counsel for the applicant submitted that no amount was credited to the account of the applicant. The alleged incident occurred in the year 2015. Report came to be lodged in the year 2023. There is a huge delay. The co-accused Shaheen Shaikh was granted pre-arrest bail by the Additional Sessions Judge, Sessions Court, Greater Bombay. Therefore, the applicant deserves the exercise of discretion.

5. The learned counsel for the applicant further submitted that to show his bonafide the applicant is, without prejudice to his rights and contentions, willing to deposit the amount of Rs.1,20,000/- in the Court of learned Metropolitan Magistrate exercising jurisdiction over the Nehru Nagar Police Station, Mumbai, if a reasonable time is granted as the applicant is suffering from serious ailment.

6. The learned APP resisted the application. It was submitted that the statement of account of the husband of the first informant indicates that a sum of Rs.1,20,000/- has been withdrawn by the

Shabir Shaikh, the applicant. The complicity of the applicant is, therefore, prima facie made out.

7. I have perused the allegations in the first information report. Primarily the allegations of inducing first informant to part with an amount by making a false representation of procuring tenement for her are against the co-accused Shaheen Shaikh.

8. By order dated 17th August 2023, the learned Additional Sessions Judge exercised the discretion in favour of the co-accused Shaheen Shaikh.

9. Evidently there is a significant delay in lodging the FIR. Since the co-accused has been granted pre-arrest bail, the applicant, also deserves the same dispensation.

10. In view of the above, I am inclined to exercise discretion in favour of the applicant.

11. Hence, the following order :-

ORDER

i] The applicant shall deposit an amount of Rs.1,20,000/- in the Court of Metropolitan Magistrate exercising the jurisdiction over the Nehru Nagar Police Station, Mumbai, within a period of two months from today.

ii] Subject to aforesaid deposit, in the event of arrest in

connection with C.R. No.0178 of 2023 registered with Nehru Nagar Police Station, Mumbai, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

iii] The applicant shall co-operate with the investigation and attend Nehru Nagar Police Station, Mumbai on 13th, 16th and 18th October 2023 in between 10 am to 1 pm.

iv] The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.

v] It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

vi] The application stands disposed.

(N. J. JAMADAR, J.)