

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2674 OF 2023

Hasuram Moreshwar Patil ...Applicant
vs.
The State of Maharashtra ...Respondent

Ms. Sakshi Kadam i/b. Mr. Kedar Patil, for the Applicant
Mr. R.M. Pethe, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.
DATE : SEPTEMBER 21, 2023

P.C.:

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

2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 131 of 2022 registered at Uran police station for the offences punishable under sections 420 and 406 of Indian penal Code, 1860.

3. The first informant is the elder sister of the applicant. The ancestral land of the applicant and the first informant and their maternal aunt was acquired by the Government for New Bombay Project. Since the compensation awarded was inadequate, the first informant, applicant and other persons having interest in the

acquired land had filed a Land Acquisition Reference before the Reference Court. Eventually, a sum of Rs. 3,01,38,449/- came to be awarded and credited to the joint account of the applicant and the first informant maintained with Bank of Maharashtra, Panvel branch. The applicant allegedly paid a sum of Rs. 5 lakhs only to the first informant as against her share of Rs. 75 lakhs and also paid a meager amount to the other share holders and thereby defrauded them of an aggregate amount of Rs. 1,93,00,000/-.

4. Apprehending arrest, the applicant approached the Court of Sessions. By an order dated 13th September, 2023 the learned Additional Session Judge, Panvel declined to exercise the discretion in favour of the applicant.

5. The learned counsel for the applicant submitted that the amount has allegedly been withdrawn, prior to five years. The first informant and other share holders have made false allegations belatedly. There is no material to indicate that the applicant has siphoned off the amount from the joint account. Therefore, the applicant deserves the exercise of discretion.

6. I find it difficult to accede to the submissions canvassed on

behalf of the applicant. The material on record as adverted to by the learned Additional Session Judge indicates that the applicant had paid a sum of Rs. 5 lakhs to the first informant, Rs. 5 lakhs to Mathura Patil, another share holder and Rs. 17 lakhs to his brother Ram Patil. The rest of the amount was withdrawn by the applicant in tranches. It was the stand of the applicant that he had paid professional fees and a sum of Rs. 35 lakhs to one of his friend.

7. Prima facie, the applicant has committed criminal breach of a trust in siphoning off a huge amount in which the co-sharer in the compensation had an interest. The aspect of delay sought to be pressed into service on behalf of the applicant is required to be appreciated in the light of the fact that the co-sharers reposed trust in the applicant. They are rustic villagers. After they realized that the applicant had fraudulently siphoned off huge amount, notices were addressed to the applicant seeking their share in the amount of compensation.

8. In the aforesaid view of the matter, grant of pre-arrest bail to the applicant would seriously jeopardize the investigation and interest of the victim. Custodial interrogation of the applicant is warranted to unearth the fraud in all its facets and identify the

persons who were privy to the fraud and also ascertain the money trail. Though the major offence punishable under section 420 of the Code entails punishment which may extend to seven years only, yet, having regard to the nature of accusation, the allegations of abuse of fiduciary position and the quantum of the amount allegedly siphoned off, this is not a fit case where the discretion to grant pre-arrest bail can be legitimately exercised. I am, therefore, inclined to reject the application.

Hence, the following order.

ORDER

- 1] The application stands rejected.
- 2] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)