



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

BAIL APPLICATION NO. 2923 OF 2023

DIMPLE SHAH
VS.
THE STATE OF MAHARASHTRA

..APPLICANT
..RESPONDENT

Adv. Niranjan Mundargi a/w Adv. Nilesh Gala a/w Adv. Manish Gala and Adv. Minil Shah a/w Adv. Keral Mehta i/b Law Square for the Applicant.

Adv. Mahesh Katian a/w Adv. Dhvani Shah and Adv. Sayli Sawant for the Original Complainant/Intervener.

Ms. Veera Shinde, APP for the State.

API R.A. Sagade, Dadar Police Station, Mumbai.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 09, 2023

P.C. :

1. Heard learned counsel for the applicant, learned counsel for the intervener and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under Sections 420, 465, 467, 468, 471, 477-A and 34 of the Indian Penal Code registered on 16/07/2023 vide C.R. No.315 of 2023 with Dadar Police Station, Mumbai.
3. The accused was working with the complainant as a production manager. The allegations against the applicant

are that in connivance with or by threatening the artisans, she would inflate the bills and from the amounts which were deposited in the accounts of the artisans a major part of the amount which otherwise belonged to the complainant, the applicant siphoned the same. The amounts siphoned which belonged to the complainant is to the tune of Rs.3,14,81,019/-. The applicant was arrested on 31/08/2023.

4. Learned APP as well as learned counsel for the complainant, invited my attention to the order dated 29/08/2023 passed in Anticipatory Bail Application No. 2367 of 2023 where this Court, while rejecting the anticipatory bail to the applicant, was of the opinion that having regard to the nature of the accusation the custodial interrogation of the applicant is necessary. Accordingly, the applicant was arrested and remanded to the police custody. The applicant is presently in judicial custody. Learned APP as well as learned counsel for the complainant submitted that huge amounts have been siphoned off by the applicant. The applicant tried to tamper with the evidence and threatened the witnesses. It is further submitted that one of the co-

accused namely Prasanjit Ghoroi, who is presently in Calcutta, is absconding. It appears that from the amount which has been siphoned, the co-accused Prasanjit purchased gold worth Rs.53,00,000/-. It is further submitted by learned APP that from the amount siphoned the applicant has purchased immovable properties which is mentioned in the affidavit which has been filed by the applicant in this Court. Learned counsel submitted that this is clearly a case of forgery and cheating as the applicant has forced the artisans to inflate the bills and thereupon siphoned money which legitimately belonged to the complainant.

5. The complainant noticed that there were some financial irregularities and that the foreign trips of the complainant had increased, hence began suspecting the intent of the applicant. It is upon enquiry, after taking the artisans into confidence, it was revealed that the applicant has committed such a serious offence and caused a huge loss aforementioned to the complainant and has deprived the complainant of the aforementioned amount.

6. Though the present proceeding can not be resorted to

for recovery of the amount, to show the bonafides, the applicant has voluntarily filed an affidavit stating thus:-

"1. I say that I am the owner of the following properties:

a. 100% Owner of Flat No.7, admeasuring 400 sq. ft. built-up, area, 4th Floor, Shrirang Sahawas Building, CTS No. 1750, Final Plot No. 174, T.P.S.- V, Nehru Road, Vile Parle (East), Mumbai -400 057.

b. 1/3rd Owner of Flat no.1001 admeasuring 983 sq. ft.carpet area along with 1 Mechanical Car Parking, 10th Floor, A-Wing, Siddhi Aura Building, Nityanand Nagar, Andheri (East), Mumbai - 400 069 situated on CTS No.694, Village Andheri, Mumbai Suburban District.

Hereto enclosed as **Annexure A** is the copy of the Sale Deed dated 27th September, 2022 of Flat No.7, Shrirang Sahawas Building, Vile Parle. Hereto enclosed as **Annexure B** is the copy of the Deed of Confirmation 3rd February, 2022 of Flat No. 1001, Siddhi Aura Building, Andheri East.

2. I give an undertaking to this Hon'ble Court that until the disposal of the trial pertaining to the FIR No.0315 of 2023, I will not dispose of the aforesaid properties and will not create any third party rights thereof.

3. I am giving this undertaking to this Hon'ble Court, without admitting and/or acknowledging any of the allegations of the Informant (Prakash Ratilal Shah) in FIR No.0315 of 2023 registered by the Dadar Police Station."

7. Learned counsel for the applicant, on instructions, has further submitted that the fixed deposit belonging to the applicant which had a balance of Rs.27,00,000/- has been

frozen by the prosecution. On instructions, a statement is made that the applicant has no objection if the prosecution proceeds to attach any other immovable or movable property found to be or the ownership or in possession of the present applicant.

8. Learned APP submitted that there are postal deposits amounting to Rs.18,00,000/- in the name of the present applicant as well as her son. Learned counsel for the applicant submits that no steps will be taken by the applicant for withdrawal of the said amount and the applicant has no objection if the said account is attached. Learned counsel for the applicant further submits that the applicant shall provide whatever information is required by the Investigating Officer as the investigation is in progress and she shall co-operate with the investigation. The statements made above are accepted as an undertaking to this Court and an affidavit is to that effect be filed, before the applicant's release on bail.

9. There are no criminal antecedents reported against the applicant. Though the application is vehemently opposed by the learned APP and learned counsel for the

complainant contending that there is one accused who is absconding and that the consideration of the bail application should be deferred till the filing of the charge-sheet, in my opinion, having regard to the fact that the applicant is a woman, in view of the statements made by the applicant recorded herein-above, in the facts and circumstances of the present case, further custody of the applicant need not be prolonged as the applicant can be enlarged on bail by imposing stringent conditions. It is always open for the complainant to resort to appropriate Civil Proceedings for recovery. The applicant will face the consequences of the trial, if found guilty. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Dimple Shah in connection with C.R. No. 315 of 2023 registered with Dadar Police Station shall be released on bail on her furnishing P.R. Bond of Rs.1,00,000/- with one or more local in the like amount.
- (c) The applicant shall attend the Investigating Officer of Dadar police station once a week, every Sunday of the week, between 10.00 a.m. and 12.00 noon, till filing of the charge-sheet and thereafter, once a month, every first Sunday of the month, between 10.00 a.m. and 12.00 noon,

till the conclusion of the trial.

(d) The applicant shall file an affidavit before this Court in view of the statements made above, before being released on bail. The applicant to abide by her statements.

(e) The applicant shall not directly or indirectly make any contact, inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence. Any attempt on the part of the applicant to do so, the same shall be viewed seriously.

(f) On being released on bail, the applicant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly.

(h) The applicant shall surrender her passport, if any, to the investigating officer.

(i) The applicant shall not leave Mumbai, Mumbai Suburban District till further orders of the trial Court or without intimation to the Investigating Officer.

10. The application is disposed of.

11. List the application on 16/10/2023 "for compliance".

(M. S. KARNIK, J.)