



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

BAIL APPLICATION NO.1112 OF 2023

ZUBER ABDUL SALAM DIVEKAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.3568 OF 2023
IN
BAIL APPLICATION NO.1112 OF 2023**

BABU JAYESHSINGH GANESH SINGH THAKUR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Kuldeep Patil i/b. Adv. Ajay Laxman Bhise for the
Applicant.

Mr. P. H. Gaikwad, APP for the State.

Adv. Vagish Mishra a/w Adv. Uttam Dubey a/w Adv.
Rajuram Kuleriya a/w Adv. Emad Khan i/b. Law Counsellors
for intervener/complainant.

API Nilesh Patil, Crime Branch Unit-I, Vashi, Navi Mumbai.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 11, 2023

P.C. :

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

2. This is an application for bail in respect of the offence
punishable under Sections 406, 402, 395, 170, 201, 420,
120-B, 34 of the Indian Penal Code (hereafter 'IPC' for

short) registered on 14.10.2022 vide C.R. No.172 of 2022 with CBD Belapur Police Station, Navi Mumbai.

3. There are in all 13 accused. The applicant is the accused No.3. The applicant was arrested on 13.11.2022. The FIR was registered on 14.10.2022. The date of the incident is 26.09.2022. The prosecution case in brief is thus :-

The complainant was desirous to pay the bonus to his workers. He was keen to pay the workers bonus in cash for which he wanted brand new crisp notes. Accordingly one acquaintance of the complainant named Ajay informed the complainant that Vishal (accused No.1) can help him get new notes in exchange of the old notes. The accused No.1 in turn introduced the complainant to the co-accused – Moin Kadri. Moin Kadri has filed an application for anticipatory bail and he is granted interim protection. Moin Kadri in turn introduced the complainant to one Sushant Kulkarni who claimed to be working with the Reserve Bank of India (RBI). Sushant Kulkarni was a fictitious name adopted by the accused - Kiran Sansari for the purpose of committing this

crime. Kiran Sansari represented that an amount of Rs.10 Crores is required as in view of the policy of RBI, only if the value of the notes to be exchanged is Rs.10 crores, then the new notes can be given by RBI.

4. The complainant informed Kiran Sansari that he has a sum of Rs.3.5 crores in old notes. Vishal (accused No.1) further agreed to arrange for a sum of Rs.1.5 crores for such conversion. Kiran Sansari accordingly agreed to get new notes in exchange on the old notes of Rs.5 crores. On the date of the incident Kiran Sansari accompanied by the complainant, Vishal and Moin Kadri went near the treasury office. Kiran Sansari informed the complainant that only he is permitted to enter the premises. He therefore took the sum of Rs.5 crores inside the treasury office. After some time Kiran Sansari came out. Kiran Sansari kept the money in a pick up van which was standing outside the treasury office citing some procedural reasons and asked the complainant to follow him.

5. Here comes the role of the applicant. This pick up van was being driven by the present applicant – accused No.3.

After the pick up van was driven for some time, one Innova car came in the way of the said pick up van. The pick up van was forced to stop. Some other accused, who got down from the Innova vehicle boarded the pick up van. The pick up van was driven away by the accused persons. The complainant lost track of the pick up van. It appears that on the next day co-accused – Kiran Sansari kept on assuring the complainant that the money will be handed over to the complainant soon, as there is some vigilance angle which has come in the way. It was later realised by the complainant that he was duped.

6. So far as the present applicant is concerned, he is an employee working with the co-accused – Sameer Arai. The applicant was the one who was driving the pick up van.

7. Learned APP and learned counsel for the complainant invited my attention to the relevant portions of the charge-sheet to demonstrate that the applicant is a conspirator and took an active part in the crime. It is pointed out that there are CDR call details which indicate that the applicant was in constant touch with the co-accused prior to and post the

incident. It is further pointed out that when the pick up van was parked outside the treasury office, it is the applicant along with other co-accused who handled the money which was brought by Kiran Sansari. It is further submitted that the pick up van was actually driven by the present applicant who was well aware of the conspiracy. It is further pointed out that there are some notings which indicate that the applicant was to receive Rs.1 lakh for this job. The applicant was actually in receipt of Rs.10,000/- as per another noting on record. According to learned APP an amount of Rs.10,000/- has been recovered from the applicant which learned counsel for the applicant disputes. It is further submitted that there are some accused who are still absconding and there is every likelihood of the applicant tampering with the witnesses. It is further submitted by learned APP and learned counsel for the complainant that any observations made in this order will seriously prejudice the pending anticipatory bail applications of the co-accused who have much greater role in the conspiracy and who are the main conspirators, prime accused.

8. I do not wish to make any observations which will prejudice either the pending anticipatory bail applications or the trial. Suffice it to observe that the applicant is in custody almost for 11 months. The charge-sheet so far as the present applicant is concerned is filed. The investigation is complete. The investigation so far as the other accused is concerned will take its own course. There is one criminal antecedent of the year 2009 reported against the applicant which should not come in the way of applicant in getting this facility of bail. It is made clear that the observations are made limited to deciding this bail application as the investigation is complete and the charge-sheet has been filed so far as the present applicant is concerned and having regard to the facts and circumstances of the present case. It is made clear that any observations made in this order are limited to the circumstances of this case and there is no question of influencing the pending anticipatory bail applications or any other bail applications that may be filed on behalf of the other accused. Considering the nature of accusations against the applicant and the facts and

circumstances qua the applicant that he is enlarged on bail.

The applicant will face the consequences of the trial.

9. Learned counsel for the applicant on instructions, submitted that till the completion of the trial the applicant shall not enter the area of Thane district. Learned counsel for the applicant submitted that the pick up van is yet to be recovered. The applicant is not the owner of the pick up van.

10. In the facts and circumstances of the present case I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Zuber Abdul Salam Divekar in connection with C.R. No.172 of 2022 registered with CBD Belapur Police Station, Navi Mumbai shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of CBD Belapur Police Station, Navi Mumbai

once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any 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.

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

(f) The applicant shall attend the trial regularly.

(g) The applicant shall surrender his passport, if any, to the investigating officer.

(h) The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

11. The application is disposed of.

12. Interim application is also disposed of.

(M. S. KARNIK, J.)