IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3430 OF 2022

Sagar Vasant Nandu ..Applicant
VS.
The State of Maharashtra ..Respondent

WITH
INTERIM APPLICATION NO.4675 OF 2022
IN
BAIL APPLICATION NO. 3430 OF 2022

Amit Tata Employees Co. Op. Housing Society Ltd. through Mr. Sukumar Prabhakar Mehta ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Raja Thakare, Senior Advocate a/w Mr. Shreeram Shirsat, Mr. Hemal Dedhia i/b. Hemal Dedhia for the Applicant.
Ms. A. A. Takalkar, APP for the State.
Zishan Quazi a/w Mr. Shailendra Abhyankar for intervenor.
Mr. Pagare, API, Dadar Police Station, Mumbai is present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 11, 2023

P.C. :

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

2. This is an application for bail by the applicant-Sagar Vasant Nandu in connection with C.R. No.190 of 2022 dated

29/03/2022 registered with Dadar Police Station, Mumbai under Sections 420, 408, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860.

3. The applicant surrendered on 07/05/2022 after the application for anticipatory bail filed by him came to be rejected.

4. It is alleged that the applicant was working as a Manager with the Amit Tata Employee Co-operative Housing Society Limited which is a society of retired Tata Group employees. One Mr. Hosbet Rohinesh was the Chairman of the said society. The allegation against the present applicant is that he, along with one Mr. Sarvar Ali Abdul Rehman Shaikh and another siphoned of Rs.1,00,35,000/- from the account of the said society. It is alleged that the applicant deposited a sum of Rs.25 lakhs with the other accused-Dhawal Savla. So far as the present applicant is concerned, it is alleged that he is the beneficiary to the tune of Rs.88 lakhs. A sum of Rs.12 lakhs is deposited by Dhawal in the account of the applicant.

5. With these allegations, the co-accused approached this Court by filing the application for anticipatory bail. By an order dated 04/08/2022 this Court allowed the anticipatory bail application of the co-accused subject to the co-accused depositing a sum of Rs.12,68,000/-. The relevant portion of the order reads thus :-

> "1. In the order dated 21/07/2022, the role attributed to the applicant no.2 Mrs. Dhawal Savla has clearly surfaced on record.
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> 2. The learned APP categorically state that, as far as applicant no. 1 is concerned, he is not arraigned as an accused and there is no question of consideration of the application qua him.
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> 3. What has surfaced on record is applicant no.2 has received a sum of Rs. 25,75,000/- in the account of Starexraya Cure Consultant Pvt Ltd., out of which, a sum of Rs. 12,68,000/- was returned to accused No.1. Further, an amount of Rs. 2,75,000/- was also deposited in cash, but the said amount is also returned to accused No.1.
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> 4. The applicant No.2 is thus liable for an amount of Rs.13,07,000/- and, when specifically asked, she make a statement that since this was the only amount, which had come to her account and since the sum of Rs. 12,68,000/- has already been returned to accused No.1, the remaining amount of Rs.13,07,000/-, which was not intended for her company, shall be returned to the Society's account.
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> 5. Accordingly, applicant No.2 has filed an affidavit stating that she undertake to deposit the first installment of Rs. 6,00,000/- within a period of 4 weeks i.e. on or before 30/08/2022 in the account of the complainant i.e. Amit Tata Employee Co-op Housing Society Ltd. and second

> installment of Rs. 7,07,000/- shall be deposited on or before 27/09/2022. The affidavit filed by the applicant No.2 is taken on record.
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> 6. In the wake of the said affidavit and since the case of the prosecution is that, the company Starexraya Cure Consultant Pvt. Ltd. is credited with an amount of Rs. 25,78,000/- and some of the amount is transferred to accused no.1, and the remaining amount being agreed to be transferred to the account of the complainant, applicant No.2 deserve her release on bail. Hence the following order.
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> 7. The counsel for the applicant make a request that the account of the company belonging to the applicant No.2 has been freezed and a sum of Rs.2,41,000/- is lying in the said account. Since the applicant has already discharged the liability towards the complainant by repaying the amount, which is received in the account, the Investigating Officer is directed to de-freeze the said account within a period from one week from today. As far as applicant no. 1 is concerned no orders are necessary."

6. So far as the present applicant is concerned, this is an application for regular bail. Learned Senior Advocate submitted that he has been falsely implicated. It is further submitted that there is hardly any amount to the credit of the applicant. Even during the period of the custody it is revealed that the applicant's accounts do not have sufficient credit. Learned Senior Advocate however submitted that in order to show his bonafides, a sum of Rs.15 lakhs, without prejudice will be deposited with the jurisdictional Magistrate’s Court.

7. The investigation is complete and the charge-sheet has been filed. The applicant is in custody since 07/05/2022. The applicant is 24 years old. There are no criminal antecedents reported against the applicant.

8. The application is vehemently opposed by learned APP and learned counsel for the complainant.

9. The statement made on behalf of the applicant that a sum of Rs.10 lakhs will be deposited within a period of 3 months and further sum of Rs.5 lakhs will be deposited within a period of 5 months from today is accepted as an undertaking to this Court.

10. The co-accused has been released on anticipatory bail and the present applicant is in custody for more than 7 months. The investigation is complete and charge-sheet has been filed. In these circumstances, prolonging the custody of the applicant would amount to a pre-trial punishment. The trial is not likely to conclude any time soon. Hence, the following order :-

ORDER

(a) Application is allowed.

(b) Applicant-Sagar Vasant Nandu shall be released on bail in connection with C.R. No.190 of 2022 registered with Dadar Police Station, Mumbai, on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs.25,000/- for a period of 6 weeks in lieu of surety.

(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) The applicant shall report to the Investigating Officer on the first Monday of every month between 11.00 a.m. and 1.00 p.m.

(f) 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.

(g) The applicant shall abide by the statement made.

(h) It is, however, made clear that in case of any breach of condition on part of the applicant, the prosecution or the complainant are at liberty to move this Court for seeking cancellation of bail.

11. The Bail Application stands disposed of.

12. The Interim Application stands disposed of.

13. Needless to mention that the observations made hereinbefore are for the limited purpose of considering this application.

(M. S. KARNIK, J.)