



Diksha Rane

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

CRIMINAL APPLICATION NO.1525 OF 2023

RAMAJAYAM GOVINDRAJ AYYAKUTI ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Hrishikesh Gharpade a/w. Adv. Siddharth Mehta, Adv. Omkar Khedekar for the applicant.

Ms. Veera Shinde, APP for the State.

Adv. Nagesh Khedkar for the original complainant/intervener.

Adv. H. I. Sirguroh for the intervener.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 19, 2023

P.C. :

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

2. This is an application for modification of the condition of deposit in the order dated 8/11/2023 passed by the trial Court while enlarging the applicant on bail. The following is the order passed by the trial Court:-

“i] Accused applicant Ramajayam Govindraj Ayyakuti shall be released on temporary bail on execution of P.B. and S.B. in the sum of Rs.25,000/- with one or more sureties of the like amount and he is further directed to deposit Rs.35,25,000/- (Rs.Thirty Five Lacs Twenty five thousand only) prior to releasing him on bail and after releasing on bail he shall deposit Rs.35,25,000/- (Rs.Thirty five lacs twenty five thousand only) in three equal monthly installments of

Rs.11,75,000/- each i.e. from December 2023 to February 2024.

ii] Applicant shall attend the police station on every Monday during 11.00 a.m. to 1.00 p.m. till filing of the charge-sheet.

iii] Applicant shall file on record the authentic proof of residence – both permanent and present.

iv] Applicant shall not tamper with prosecution witnesses or pressurize witnesses in any manner whatsoever.

v] Applicant shall not leave the jurisdiction of this court without prior permission of investigating officer in writing.

vi] Applicant shall regularly remain present during the trial and co-operate to complete the trial for the above offences.

vii] The applicant shall maintain law and order.

viii] The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the Investigating officer, and shall inform the change in residence if any.

x] If breach of any of the above conditions is committed, the order of bail shall stand cancelled.”

3. Learned APP as well as learned counsel for the interveners opposed the application. It is submitted that the order passed is in accordance with law and the same should not be interfered with. It is further submitted that the observations of the trial Court are categoric in as much as the trial Court has made observations as to why the amount of Rs.70,50,000/- is to be recovered from the accused persons. An amount of Rs.25,00,000/- is already deposited by the son and daughter of the applicant, the co-accused in this C.R.

4. Learned counsel for the applicant, on instructions of the applicant's daughter Anuprita Ramajayam Govindraaj voluntarily submits that in order to show his bonafides, the applicant is willing to deposit a sum of Rs.20,00,000/- in the MPID Court. He submits that out of sum of Rs.20,00,000/-, a sum of Rs.5,00,000/- will be deposited with the MPID Court prior to his release. The balance amount of Rs.15,00,000/- will be deposited within a period of three months from the date of his release. The statement is accepted as an undertaking to this Court. Apart from the applicant having instructed learned counsel for the applicant, even the applicant's daughter who is personally present in the Court has assured on behalf of the applicant that the said amount shall be deposited in the manner stated hereinabove.

5. So far as the balance amount is concerned, it is open for the prosecution to move the MPID Court for attachment of the movable and immovable properties of the applicant for realization of the dues in accordance with law. Learned counsel for the applicant, on instructions, submitted that the applicant will not have any objection to the attachment of the movable and immovable properties for realization of the

dues by the MPID Court in accordance with law. This is without prejudice to the rights and contentions of the parties in the pending proceedings before the MPID Court.

6. Learned APP as well as learned counsel for the interveners did oppose the application to justify imposition of the conditions by the MPID Court. However, while deciding the application, I draw support from the decision of the Supreme Court in the case of **Shane George Dsouza vs. State of NCT of Delhi**¹ decided on 4/10/2023. The relevant observations made by Their Lordships are thus:-

“First Information Report was filed making allegations of commission of offences under Sections 419, 420 and 120B of the Indian Penal Code and Sections 66C and 66D of the Indian Technology Act, 2000. The allegation of the prosecution is that the present appellant has cheated the complainant and the amount involved is about Rs.37,00,000/- (Rupees thirty seven lakhs). The Sessions Court by the order dated 18th January, 2023 granted bail to the appellant subject the condition of deposit of a Demand Draft in the sum of Rs. 10,00,000/- (Rupees ten lakhs) in the name of the Trial Court. A direction was issued that the Trial Court may release the said amount to the victim. The appellant moved the High Court seeking waiver of the condition of deposit of Rs. 10,00,000/- (Rupees ten lakhs). The High Court rejected the said prayer by the impugned order. However, time to deposit the amount was extended.

This Court has repeatedly held that the condition of deposit of such amount cannot be a condition of bail. In this case, the appellant had not volunteered to deposit the sum of Rs.10,00,000/- (Rupees ten lakhs). The direction in the order dated 18th January, 2023 is not only of imposing a condition on the appellant of bringing a sum of Rs.10,00,000/- (Rupees ten lakhs) to the Trial Court but a permission has been granted to release the amount to the victim. It is a settled

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law that criminal proceedings cannot be converted into recovery proceedings.

Hence, in the facts of the case, there was no justification for imposing the condition of deposit of Rs.10,00,000/- (Rupees ten lakhs). Accordingly, the appeal must succeed and we set aside clause (a) of the operative part of the order dated 18th January, 2023 passed by the Additional Sessions Judge-05, New Delhi District, Patiala House Courts, New Delhi. The rest of the conditions shall remain as it is.”

7. In this view of the matter, the order passed by the trial Court regarding the condition imposed about the deposit shall stand modified in terms of what is stated hereinabove.

8. The application is allowed to the extent aforestated.

9. The applicant to abide by the statement made within a period of two weeks of his release. The applicant shall file an affidavit with the MPID Court within two (2) weeks of his release that he will comply confirming the statements made with the undertaking given to this Court.

10. The application is disposed of accordingly.

(M. S. KARNIK, J.)