



Diksha Rane

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

BAIL APPLICATION NO.3904/2023

NISHA KETAN DUSARA

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Neha Patil a/w. Adv. Saakshi Jha for the applicant.

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

PSI Prashant Survase, Malad police station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 15, 2023.

P.C. :

- 1.** Heard learned counsel for the applicant.
- 2.** This is an application for bail in respect of the offence punishable under Sections 406, 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 16/7/2022 vide C.R. No.1021/2022 with Malad Police Station, Mumbai.
- 3.** Learned APP opposed the application for bail. An affidavit affirmed by Mr. Rajendra Bhaurao Panhale, Inspector of Police, is placed on record. Learned APP submitted that the applicant is a habitual offender and there

are as many as four cases registered against her of a similar nature. The applicant, who is a woman, represented to the informant that she could provide Nitrile Gloves at a reasonable rate. Since the business of the informant was closed down due to Covid-19, he thought of placing an order of purchase of the gloves at the rate quoted by the applicant. The informant paid an amount of Rs.78,57,000/- to the applicant. However, the applicant did not provide the gloves nor returned the money. Further, it is alleged that the applicant on the basis of some forged and fabricated documents pertaining to the Customs Department, gained the trust of the informant while assuring him that the applicant will supply these gloves at such reduced rates. Learned APP further submitted that the applicant is involved in four similar offences. It is further submitted that the applicant has a British passport and therefore, there is every likelihood of the applicant absconding and therefore, submitted that the present applicant should not be enlarged on bail.

4. The applicant was arrested on 12/9/2022. The informant has been duped to the tune of Rs.78,57,000/-.

Learned APP insisted that the applicant should deposit the amount. The present proceedings cannot be converted into a recovery proceedings. It is always open for the informant to file an appropriate civil proceeding for recovery of the amounts. The applicant will face the consequences post trial if the charges levelled against her are proved. The applicant cannot be kept an under-trial in detention endlessly as I am informed that only the charge has been framed on 15/5/2023 and thereafter, there has been no progress in the trial. As there are criminal antecedents of similar nature against the present applicant, instead of denying bail, I propose to impose stringent conditions while enlarging the applicant on bail. The antecedents by itself, in my opinion, are not sufficient reason to deprive the applicant facility of bail. The applicant is in custody for more than one year and three months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Nisha Ketan Dusara in connection with

C.R. No.1021/2022 registered with Malad Police Station, Mumbai, shall be released on bail on her furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Malad police station, once in a week i.e. every Saturday between 11.00 a.m. and 1.00 p.m. till further orders of the trial Court.

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

(g) The applicant shall surrender her British as well as Indian passports, if any, to the trial Court prior to her release on bail.

(h) The applicant shall not leave the jurisdiction of Mumbai/Mumbai Suburban District without permission of the trial Court.

(i) If the applicant is found indulging or engaging herself in any similar offence, while on bail, it is open for the prosecution to apply for cancellation of bail.

5. The application is disposed of.

(M. S. KARNIK, J.)