

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3410 OF 2023

Nasarin Sarfaraj Tadavi ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Ramdas Shelke, for the Applicant

Mr. S.H. Yadav, APP, for the Respondent/State.

Mr. Prithviraj Khandagale, Gaondevi police station.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 7, 2023

P.C.:

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

2. This application is preferred seeking pre-arrest bail in connection with C.R. No.340 of 2023 registered at Gaondevi police station for the offences punishable under sections 420, 465, 468, 471 read with 34 of Indian penal Code, 1860.

3. The first informant deals in the business of scrap. The first informant alleged that co-accused Raj Rajput, who is the husband of the applicant, induced him to part with a sum of Rs. 5 lakhs by making representation that he had 50000 ton scrap material for sale. The co-accused has allegedly shown forged and fabricated documents to deceive the first informant in parting with the amount. It is further alleged that at the instance of the co-accused,

the first informant had credited the sum of Rs. 1 lakh in the account of the applicant on 12th January, 2021 and another sum of Rs. 1 lakh on 1st June, 2021. The co-accused did not deliver the scrap material as promised. Having realized that the co-accused and the applicant have deceived him, the first informant lodged the report.

4. The learned counsel for the applicant submitted that the applicant had no concern with the alleged transaction. The husband of the applicant had given the account number in which the first informant had credited a sum of Rs. 2 lakhs. Out of the said amount, Rs. 1 lakh was returned by the applicant. She had not made any inducement or false representation. It was further submitted that MOU and POA were executed between the first informant and the co-accused in the year July, 2021 to which also the applicant is not a party.

5. The learned APP submitted that there is material to show that the first informant was made to transfer the amount to the account of the applicant. The learned Session Judge has recorded that the applicant had accepted a sum of Rs. 2 lakhs. In the circumstances, it cannot be said that the applicant is not a privy to the offences. Hence, the applicant does not deserve the exercise of the discretion.

6. I have perused the allegations in the first information report. The first information report singularly lacks the allegation that the

applicant had made any representation or induced the first informant to part with any amount. All the allegations are against the co-accused. The first informant has specifically alleged that at the instance of the co-accused, he had credited the amount to the account of the applicant.

7. The first information report refers to the credit of sum of Rs. 2 lakhs to the account of the applicant, out of which Rs. 1 lakh is returned. The learned counsel for the applicant, on instructions, submits that the applicant is willing to deposit the balance amount of Rs. 1 lakh.

8. I am, therefore, inclined to exercise the discretion in favour of the applicant.

9. As undertaken, the applicant shall deposit a sum of Rs. 1 lakh in the Court of learned Metropolitan Magistrate exercising jurisdiction over Goandevi police station within a period of one month from today.

10. Subject to the aforesaid deposit, in the event of arrest in C.R. No.340 of 2023 registered with Gaondevi police station, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

11. The applicant shall cooperate with the investigation and attend Gaondevi police station, on 16th and 17th December 2023 in

between 10 am to 1 pm and, thereafter, as and when directed.

12. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

13. The applicant shall regularly attend the proceedings before the jurisdictional Court.

14. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)