



PMB

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

BAIL APPLICATION NO.3984 OF 2023

ABBAS TAHER MITHAIWALA

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Pravin Uttam Gaikwad a/w Adv. Vashisth Kumar Arora
a/w Adv. Shahrukh Siraj Shaikh for the applicant.

Ms. Veera Shinde, APP for the State.

API V. S. Shirsat, Kasarvadavli Police Station, Thane.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 15, 2023

P.C. :

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

2. This is an application for bail in respect of the offence
punishable under Sections 406, 465, 468 of the Indian
Penal Code (hereafter 'IPC' for short) registered on
25.03.2022 vide C.R. No.I-101 of 2023 with Kasarvadavli
Police Station.

3. It is alleged by the complainant that on 11.12.2019
the complainant transferred an amount of Rs.10 lakhs in
the account of the applicant and further handed over Rs.50
lakhs to the applicant. The complainant had to pay his son's

education fee in London and as he was not very well versed with pound and American dollar he asked for accused help as accused had an import export business and was regularly dealing with money outside India. The complainant realised that the applicant had cheated him. The applicant issued two cheques of Rs.10 lakhs and Rs.51 lakhs which came to be dishonoured.

4. Learned APP opposed the application for bail and submitted that this is a gross case of cheating. The applicant had breached the trust of the complainant. It is further submitted that the applicant should deposit the entire amount.

5. Learned counsel for the applicant on instructions submitted that the applicant is willing to voluntarily deposit Rs.10 lakhs with the trial Court prior to his release. Statement is accepted. It is further submitted that Rs.10 lakhs to show his bonafides will be deposited with the trial Court within a period of four weeks from the date of his release. The statement is accepted. The applicant to abide by the statements.

6. The applicant was arrested on 17.06.2023 and is now in custody since then. The investigation is complete and the charge-sheet has been filed. Further custody of the applicant only will be by way of a pre-trial punishment. The trial is not likely to conclude any time soon. There is one criminal antecedent reported against the applicant of similar nature which should not be a factor to deprive the applicant the facility of bail. The applicant does not appear to be a flight risk. The applicant can be enlarged on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Abbas Taher Mithaiwala in connection with C.R. No.I-101 of 2023 registered with Kasarvadavli Police Station shall be released on bail on his 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 Kasarvadavli Police Station 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. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(g) The applicant shall not leave the country without the permission of the trial Court.

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

7. The application is disposed of.

(M. S. KARNIK, J.)