IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 CRIMINAL APPLICATION NO. 2050 OF 2024
IN BAIL APPLICATION NO.856 OF 2024

AMIT VALLABARAY PANDIT
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicant : Adv.Abad Ponda, Senior Advocate, a/w. Adv.Nilesh Tribhuwan, a/w. Adv.Burzin Bharucha i/b. Adv.K.M.More
APP for Respondent-State : Adv.A.R.Kale
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CORAM : SANJAY A. DESHMUKH, J.
(VACATION COURT)
DATED : 22nd MAY, 2024.

PER COURT :-

1] This is an application for granting temporary bail.

2] The learned counsel for the applicant submitted that the applicant is suffering from Haemophilia. The learned Advocate for the applicant further submitted that the applicant has filed an affidavit that he is ready to deposit entire amount as per the decision of Debt Recovery Tribunal, Aurangabad. Para nos.2 to 5 of the said affidavit reads as under:

> *2. I say that after the said the Applicant got a benefit from the Hon'ble DRT by order dated 30 June 2023 and 15 June, 2023. Under the said orders, the amount of Rs.16,00,00,000/- was*

reduced to Rs.13,64,33,047/- by virtue of the fact that an amount of Rs.1,50,81,773/- and Rs.20,00,000/- and Rs.64,85,180/- had to be deducted for earlier payments made which was duly recorded in the order dated 15 June, 2023.

3. I say that hence the outstanding dues therefore was reduced to Rs.13,64,33,047/-. I further say that I paid Rs.1,60,00,000/- on 13 July, 2023 and Rs.40,00,000/- on 20 July, 2023, both within the stipulated time period as per the order of the Hon'ble DRT dated 15 June, 2023. I further say that I paid Rs.50,00,000/- on 4 September, 2023 and Rs.50,00,000/- on 27 October, 2023. Hence I owe Rs.10,64,33,047/- which is the figure that has arrived after the above mentioned calculations.

4. I hereby undertake to pay an amount of Rs.2,00,00,000/- within 15 days of my release and further undertake to pay the balance amount of Rs.8,64,33,047/- post the expiry of 15 days within a period 3 months' time after the expiry of the 15 days period as mentioned above.

5. I say that on my failure to comply with either of the above undertakings to pay in the stipulated periods, I will not seek any further extension of time and surrender before the concerned court. The above offer is made only to show my bonafides and without admitting my guilt in any manner and without prejudice to my rights and contentions in further proceedings as well as in the trial.

3] The learned counsel for the applicant further submitted that as per the aforesaid affidavit, the applicant is ready to pay the amount concluded by DRT, which is mentioned in the affidavit within time frame. He relied upon the judgment in the case of **Ramesh Kumar Vs. The State of NCT of Delhi** in **Criminal appeal**

[arising out of SLP (Cri.) No.2358 of 2023] decided on July 04, 2023 in which the Hon'ble Supreme Court in para no.26 of it observed as under :

> *26. …… We may, however, not be understood to have laid down the law that in no case should willingness to make payment/deposit by the accused be considered before grant of an order for bail. In exceptional cases such as where an allegation of misappropriation of public money by the accused is levelled and the accused while seeking indulgence of the court to have his liberty secured/restored volunteers to account for the whole or any part of the public money allegedly misappropriated by him, it would be open to the concerned court to consider whether in the larger public interest the money misappropriated should be allowed to be deposited before the application for anticipatory bail/bail is taken up for final consideration. After all, no court should be averse to putting public money back in the system if the situation is conducive therefor. We are minded to think that this approach would be in the larger interest of the community. However, such an approach would not be warranted in cases of private disputes where private parties complain of their money being involved in the offence of cheating.*

He further relied upon the judgment in the case of **Inderjit Singh Grewal Vs. State of Punjab and another** reported in **[2011] 12 SCC 588** and the Hon'ble Supreme Court has held in para no.17 and 18 as under :

> ***17.*** *It is a settled legal proposition that where a person gets an order/office by making misrepresentation or playing fraud upon the competent authority, such order cannot be sustained in the eye of the law as fraud unravels everything. “Equity is always known to defend the law from crafty evasions and new subtleties invented to evade law.” It is trite that “fraud and justice never dwell together” (fraus et jus nunquam cohabitant). Fraud is an act of deliberate deception with a design to secure something, which is otherwise not due. Fraud and deception are synonymous. “Fraud is anathema to all equitable principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine.” An act of fraud on court is always viewed seriously. (vide Meghmala v. G.Narasimha Reddy, SCC pp. 395-96, para 34).*
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> ***18.*** *However, the question does arise as to whether it is permissible for a party to treat the judgment and order as null and void without getting it set aside from the competent court. The issue is no more res integra and stands settled by a catena of decision of this Court. For setting aside such an order, even if void, the party has to approach the appropriate forum. [Vide State of Kerala v. M.K.Kunhikannan Nambiar Manjeri Manikoth and Tayabbhai M.Bagasarwalla v. Hind Rubber Industries (P) Ltd.]*

The learned counsel for the applicant lastly prayed to grant temporary bail considering bonafides of this applicant.

4] The learned A.P.P. for the respondent-State has strongly opposed the application and submitted that there is forensic audit report which shows that the applicant has misappropriated huge amount of Rs.36 crores. The investigation is in progress. The trial Court has rightly rejected the bail application of the applicant. The applicant may misuse the liberty allowed. The applicant can be treated in the Civil Hospital. Lastly, the learned APP prayed to reject the application.

5] Perused the charge sheet particularly report and other documents. The public money is involved in this litigation and would certainly cause hurdle to the interest of public. The applicant is ready to deposit amount of Rs.2,00,00,000/- within 15 days of his release on bail. He undertakes to pay the balance amount of Rs.8,64,33,047/- post expiry of 15 days within a period of 3 months' or earlier to that.

6] To raise money to pay that amount applicant must not be behind bar. Considering the bonafides offered on the part of the applicant, it would be appropriate to release the applicant on bail for three months as prayed in para no.4 of the affidavit filed by the applicant in the interest of public money. If the applicant fails to deposit that amount of Rs.2,00,00,000/- within 15 days, the respondents may proceed further for cancellation of bail granted to the present applicant.

7] Considering all these aspects, Criminal Application No.2050 of 2024 deserves to be allowed. Hence, the following order :

O R D E R

I. Application is allowed.

II. The applicant in connection with crime No.0121 of 2022 registered with Kotwali Police Station, District Ahmednagar, for the offences punishable under Section 420, 409, 467, 468, 471 r/w. 34 of the Indian Penal Code, be released on temporary bail of three months on furnishing personal bond of Rs.1 lac with one surety of the like amount on following conditions:-

a) The applicant shall deposit in the concerned Bank an amount of Rs.2,00,00,000/- within 15 days of his release on bail and also deposit remaining amount of Rs.8,64,33,047/- post expiry of 15 days within a period of 3 months' or earlier to that.

b) The applicant to surrender passport and he shall not leave the country without permission of the trial Court.

c) If the Investigating Officer require the presence of the applicant for investigation, he may communicate him in writing and secure the presence of the applicant and the applicant shall attend the concerned Police Station and shall submit his Email ID and residential address to the concerned Police Station as soon as he is released on bail.

d) The applicant shall submit details of his assets before the Investigating Officer.

e) The applicant shall not tamper with the prosecution evidence and shall not pressurize the witnesses, in any manner.

f) If any breach of the above conditions are noticed by the trial court or the prosecution, the trial court is at liberty to cancel the bail of the applicant without reference to this Court.

III. Criminal Application No.2050 of 2024 is disposed of accordingly.

IV. Hamdust permitted.

V. Parties to act upon authenticated copy of this order.

VI. List Bail Application No.856 of 2024 on 26.08.2024.

(SANJAY A. DESHMUKH, J.)

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