

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1513 OF 2024

Swapnrekha D/o Bhanudas Choudhary

VERSUS

The State Of Maharashtra

...

Advocate for Applicant : Mr. Rajendra Deshmukh, Senior Counsel a/w
Mr. R.G. Dodiya & Ms. Rakshanda Jaiswal i/b Mr. Deshmukh Devang
Rajendrraa

APP for Respondent/State : Mr. A.A.A. Khan

Advocate for Applicant in APPLN/3711/2024 : Mr. Umesh N. Shete

WITH

CRIMINAL APPLICATION NO. 3711 OF 2024
IN BA/1513/2024

...

CORAM : S.G. MEHARE, J.

DATED : OCTOBER 08, 2024

PER COURT:-

1. Heard the learned senior counsel for the applicant, the learned APP for the State and the learned counsel for the financial institution.
2. The applicant seeks bail in Crime No.84 of 2024 registered with Jawaharnagar Police Station, District Aurangabad for the offence punishable under Sections 409, 420 r/w 34 of the Indian Penal Code.
3. The prosecution case in brief was that the applicant was the public relation officer. She had collected the papers from the people for securing the loan. The loan was sanctioned; however,

instead of disbursing that loan to the borrower, she misused the ATM Cards to be given to the borrowers and withdrew the amount. In such a way, she cheated the financial institution for Rs.36,17,000/-. She was arrested. She was undergone police custody remand. The charge sheet has been filed.

4. The learned senior counsel for the applicant would submit that nothing is to be recovered from the applicant. A detail interrogation was done against her. She was in the police custody. Her confessional statement does not bind her. She is pregnant. He has the instructions that the child in her womb has some medical difficulties. He would submit that it is a big charge sheet. The trial will take its time. She is a permanent resident of Aurangabad. So, there are no chances of her absconding. Hence, she may be granted bail.

5. The learned APP and counsel for the financial institution have strongly opposed the application. The tenor of arguments of the counsel for the financial institution was that she should be forced to deposit the amount allegedly defrauded. The Criminal Court is not the recovery Court. Other remedy is available to the financial institution. The learned APP also argued that she has made a statement that she would deposit the money. She did not follow it. Hence, she could not be trusted that she would not abscond.

6. The allegations as stated above reveal that she has misused her position and instead of disbursing the loan to the borrowers, she withdrew it and used for herself. The necessary investigation has been done against her. As observed above, the Criminal law is not for the recovery of the defrauded amount. The Criminal law is meant to punish the offenders according to the law. Therefore, there would not be a condition for bail to deposit the money allegedly defrauded. However, the Court has to consider the material on merit. So far as the allegations levelled against the applicant, detail investigation has been done. Nothing is to be recovered from her. The prosecution cannot ensure the speedy trial. That apart, the facts of the case that she is now pregnant and care of her child in her womb needs to be taken, no purpose would be served by keeping her behind bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Swapnrekha D/o Bhanudas Choudhary, be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that ;
 - (a) The applicant should not tamper with the prosecution witnesses and should attend the trial on each and every effective date.

(4)

(b) The applicant should not deal with any transaction of purchase or sell of any immovable property or valuable movable property till the trial is concluded without the leave of Trial Court.

(c) The applicant should co-operate with the prosecution, if any further investigation is desired.

(iii) Criminal Application No.3711 of 2024 stands disposed of.

(S.G. MEHARE, J.)