

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3778 OF 2022

Akibkhan Harunkhan Pathan	Applicant
versus	
The State of Maharashtra	Respondent

WITH
INTERIM APPLICATION NO.1346 OF 2023

Rizwan Ayub Deshmukh and others	Intervenors
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In the matter between :

Akibkhan Harunkhan Pathan	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Sarang S.Aradhya with Ms.Gauri elankar and Shantanu Gurav for Applicant.

Mr.PH.Gaikwad Patil, APP, for State.

Mr.Hrishikesh S.Shinde, Advocate for Intervenor.

Mr.R.S.More, eOW, Solapur City, present.

CORAM : ANIL S.KILOR, J.

DATE : 24th June 2024

PC :

1. Heard. Intervention Application No.1346 of 2023 is not on board. It is taken on board and heard along with Bail Application.

2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.151 of 2020 registered with Vijapur Naka Police Station, Solapur City, for the offences punishable under Sections 420, 34 and 120-B of the Indian

Penal Code r/w Sections 3 and 4 Maharashtra Protection of Interest of Depositors Act, 1999.

3. Learned counsel for Applicant submits that there was no intention to cheat the farmers but because of the situation which had arisen, the Applicant could not fulfill the promise, as alleged to have given to the farmers. It is submitted that the Applicant was arrested on 14th September 2020 and for about four years he is in jail. Whereas, the maximum punishment is seven years. He submits that one of the co-accused having similar role was released by this Court vide order dated 29th September 2021.

4. Learned APP strongly opposed the application and submits that the role of the co-accused who has been granted bail, is not similar like the Applicant. It is submitted that the Applicant is the Proprietor and by giving inducement of giving open plots after the period of maturity, 26 persons were cheated. He, therefore, submits that since sufficient material is available on record to show prima facie involvement of the Applicant, he may not be granted bail.

5. Learned counsel for Intervenor strongly opposed the grant of bail and submits that there is possibility that if applicant is released on bail, he may not be available for bail.

6. Having gone through the charge sheet and considering the rival submissions, I am of the opinion that whether there was an intention to cheat the investors or not, is a matter of evidence. However, considering the maximum punishment in case the Applicant is convicted in the present matter and the period of incarceration i.e. about four years, I am of the opinion that Applicant is entitled for grant of bail.

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No. 151 of 2020 registered with Vijapur Naka Police Station, Solapur City, for the offences punishable under Sections 420, 34 and 120-B of the Indian Penal Code r/w Sections 3 and 4 Maharashtra Protection of Interest of Depositors Act, 1999 on furnishing P.R.Bond of Rupees Fifty Thousand with one solvent surety in the like amount;
- (iii) The applicant shall attend Vijapur Naka Police Station, Solapur City, on 1st and 16th day of every month between 12.00 noon and 2.00 p.m, till conclusion of trial;
- (iv) The Applicant shall surrender his passport with the Trial Court immediately after his release on bail;
- (v) The Applicant shall not create third party rights and interests in respect of the properties owned by him;
- (vi) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- (vii) Liberty is granted to the State for cancellation of bail if the applicant commits similar offence;
- (viii) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(ANIL S.KILOR, J.)

MST