

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

ANTICIPATORY BAIL APPLICATION NO. 96 OF 2024

Atul Nathalal Patel

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Waqar Nasir Pathan for Applicant.

Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

Mr. R. B. Mokashi for Intervenor.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 15 JANUARY 2024

P.C. :-

1. The Applicant is accused in C.R.No.478 of 2023 registered at Antop Hill police station, Mumbai, for the offences U/s. 406, 420 and 120-B of the I.P.C. He had preferred A.B.A.No.2719 of 2023 which was allowed on certain conditions by the learned Additional Sessions Judge, Greater Mumbai, on 03.01.2024. The order was passed with certain conditions. One of the conditions was that the applicant had to tender the amount of the alleged cheating within three working days from 03.01.2024. The

applicant has preferred the present application before this Court for relaxation of this particular condition.

2. Heard Mr. Waqar Nasir Pathan, learned counsel for the applicant, Ms. Mahalakshmi Ganapathy, learned APP for the State and Mr. R. B. Mokashi, learned counsel for the Intervenor.

3. At the first instance, the A.B.A.No.2719 of 2023 before the Court of Session was heard by the holiday court and ad-interim protection was granted to the applicant on 23.12.2023. The order records that the advocate for the applicant had submitted that the applicant was ready to deposit the amount of the alleged cheating. Thereafter the matter was heard by the learned Judge taking up the regular assignment in respect of the said anticipatory bail application. The learned Additional Sessions Judge, vide the order dated 03.01.2024 granted protection of anticipatory bail to the applicant. A.B.A.No.2719 of 2023 was allowed. The clause (2) of the said order reads thus:-

“In the event of arrest, the applicant Atul Nathalal Patel in C.R.No.478/2023 registered with Antop Hill Police Station, Mumbai for the offence punishable under Sections 406, 420 and 120-B of IPC, be released on bail

of furnishing P. R. Bond to the extent of Rs.30,000/- with one or two sureties of the like amount. Applicant shall tender an amount of alleged cheating as submitted by the Ld. Advocate for applicant on his behalf within three working days from the date of this order.”

There were other conditions, as well.

4. The applicant preferred M.A.No.20 of 2024 in A.B.A.No.2719 of 2023 for relaxation of conditions at Clause Nos.2, 6 and 8 of the order dated 03.01.2024 passed in A.B.A.No.2719 of 2023. The said application was partly allowed on 09.01.2024. The condition at Clause No.8 was modified. The condition in Clause No.6 was retained as it was and the Clause No.2 of the operative part which is the subject matter of the present application before this Court was modified and the period for depositing the amount was extended by two working days from 09.01.2024.

5. Learned counsel for the applicant submitted that, considering the entire reasoning in the order, this condition itself is required to be set aside. On instructions, he further submitted that, in the alternative, the applicant be granted two weeks time to

deposit that amount. He submitted that the amount which was not specifically mentioned in Clause 2 is clarified in the order dated 09.01.2024 and the said amount is quantified as Rs.65 lakhs. He makes a statement before this court, on instructions, that this amount shall be deposited by the applicant within a reasonable time framed by this Court.

6. Learned counsel appearing for the original first informant submitted that the applicant has not been honest with the Court. On the first occasion, a statement was made on 23.12.2023 that the amount would be deposited by the applicant. It was not deposited till the application was decided on 03.01.2024, and even thereafter, when the application for modification was decided on 09.01.2024. He submitted that, even today that amount is not deposited and the applicant is taking wrong advantage of the proceedings before the Court. The Applicant is not honest in his submissions.

7. Learned APP submitted that, some reasonable time may be fixed so that the applicant can deposit the said amount.

8. I have considered these submissions. The learned Additional Sessions Judge has already granted protection of anticipatory bail to the applicant. The learned Judge has quantified the amount of Rs.65 lakhs and had directed the applicant to deposit that amount within two days from 09.01.2024. It is significant to note that the said condition was imposed pursuant to the submissions made by the learned counsel for the applicant himself. Therefore, at this stage, the said condition cannot be dispensed with altogether. However, learned counsel for the applicant has submitted that some reasonable time be granted to the applicant to deposit that amount. He is seeking two weeks time to which the learned counsel for the first informant has strong objection.

9. Considering these submissions, in the interest of justice, period of 10 days can be granted to the applicant to deposit the said amount before the Session Court.

10. Hence, the following order.

ORDER

- i) The order dated 03.01.2024 passed by the learned Additional Sessions Judge, Greater Mumbai, in A.B.A.No.2719 of 2023 which is modified by the order dated 09.01.2024 passed in M.A.No.20 of 2024 in the said application is further modified only to the extent that the applicant is permitted to deposit the said amount of Rs.65,00,000/- within a period of 10 days from today before the Registry of the Court of Session, Greater Mumbai.
- ii) Apart from this, the other clauses as modified by the order dated 09.01.2024 passed by the Additional Sessions Judge, Mumbai are retained as they are.
- iii) With this direction, the application is disposed of.

(SARANG V. KOTWAL, J.)