

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 456 OF 2024

SANTOSH  
SUBHASH  
KULKARNI

Digitally signed by  
SANTOSH SUBHASH  
KULKARNI

Date: 2024.02.03  
11:34:21 +0530

Vishnudev Ramsundar Mishar @ Vishnu  
Tripathi

...Applicant

**Versus**

The State of Maharashtra

...Respondent

Mr. Tohid Shaikh, i/b Anjali Patil, for the Applicant.

Mrs. Geeta Mulekar, APP for the State/Respondent.

PSI D. V. Salunkhe, Kurla Police Station, present.

**CORAM: N. J. JAMADAR, J.**

**DATED: 2<sup>nd</sup> FEBRUARY, 2024**

**ORDER:-**

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with CR No.173 of 2023 registered with Kurla Police Station, Mumbai, for the offences punishable under Sections 120B, 420, 465, 466, 467, 468, 471, 472 and 473 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").
3. The indictment against the applicant and co-accused Hussain Khan and Wasim Shaikh and wanted accused, is that the applicant and co-accused had entered into a criminal conspiracy and in pursuance of the said conspiracy induced the first informant and his wife Nasrin to part with

huge amount of Rs.73,50,000/- by making a false representation that the first informant and his wife would be provided MHADA tenements at concessional rate. It is alleged that the applicant had impersonated himself as an official of MHADA and the first informant and his wife were induced by the co-accused to pay a sum of Rs.5,00,000/- each, to the applicant. The accused had allegedly prepared false and bogus documents and used the forged document as genuine.

4. The learned Counsel for the applicant submitted that in the FIR apart from the fact that the applicant was present alongwith the co-accused, Hussain Khan, who was stated to be principal accused, no role was initially attributed to the applicant. In the supplementary statement of the first informant and his wife recorded belatedly in the month of October, 2023, it is alleged that the first informant and the said witness had paid Rs.5,00,000/- each to the applicant. It was submitted that there is no material to show that any amount was credited to the account of the applicant.

5. The learned APP resisted the prayer for bail. It was submitted that there is a MoU executed by the applicant and co-accused Ramesh Pawar and Hussain Khan acknowledging

the receipt of a sum of Rs.55,00,000/- (page 179 and 180 of the application). Therefore, the complicity of the applicant can be said to have been *prima facie* made out. As the applicant is one of the beneficiaries of the alleged fraud, he does not deserve to be release on bail.

6. I have perused the report under Section 173 of the Code of Criminal Procedure, 1973 ("the Code") and the documents annexed with it. The initial false representation appears to have been made by co-accused Hussain Khan. The first informant and his wife, did not initially allege that the applicant had impersonated himself as MHADA official and induced them to part with the amount. The supplementary statements of the first informant and his wife were recorded on 21<sup>st</sup> October, 2023 in which it was alleged that the co-accused had represented to the first informant and the witness that the applicant was a MHADA official and induced them to pay a sum of Rs.5,00,000/-, each, to the applicant.

7. The nature of the transaction evidenced by the affidavit-cum-undertaking, allegedly executed by the applicant and the co-accused, appears to be a matter for adjudication at the trial.

8. In the aforesaid view of the matter, since the investigation is complete and the offences revolve around documents, the further detention of the applicant does not seem warranted.

9. The applicant is in custody since 22<sup>nd</sup> October, 2023. It is unlikely that the trial can be concluded within a reasonable period.

10. Hence the following order:

**: O R D E R :**

(i) Application stands allowed.

(ii) The applicant be released on bail in CR No.173 of 2023 registered with Kurla Police Station, Mumbai, on furnishing a P.R. Bond of Rs.30,000/- with one or more sureties in the like amount to the satisfaction of the learned Magistrate.

(iii) The applicant shall mark his presence at the concerned police station on the first Monday of every month in between 10.00 am. to 12.00 noon for the period of two years or till conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. 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.

(v) 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.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]