Sayali Upasani

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 770 OF 2024

Aarif Ajmuddin Patel ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Tohid Shaikh i/b Ms. Anjali Patil, for Applicant.
Mr. Shailesh Suresh Ghag, APP for State-Respondent No. 1.
Mr. Ishan Shrivastav with Ravleen S. with Aarushi Yadav i/b ARS Jusicia Law, for Intervener.

CORAM:- N. J. JAMADAR, J.
DATED:- 27th FEBRUARY, 2024.

ORDER:-

1) The applicant, who is arraigned in CR No. 421 of 2023, registered with Matunga Police Station, Mumbai, for the offences punishable under Sections 120B, 406, 420, 468, 471 and 506 (2) of the Indian Penal Code, 1860, has preferred this application to enlarge him on bail.

2) The gravamen of indictment against the applicant is that the applicant and the co-accused Ali Raza Shaikh had induced the first informant to part with a huge amount by making a false representation that they would get the prosecution initiated against the first informant quashed. In the FIR, there are allegations against the accused No. 1 – Ali Raza Shaikh, of having deceived the first informant to part with a huge amount of Rs.1,95,68,000/- on multiple counts such as getting the prosecution against the first informant quashed, transferring a liquor license in favour of the first informant, and also by promising huge returns on the investment made by the first informant in the business of agriculture produce at APMC Market, Navi Mumbai. The first informant further alleged that when the first informant insisted for the return of the amount, he was threatened with dire consequences on the point of a Pistol.

3) The applicant allegedly impersonated himself as Vikrant Sonawane, who was to transfer liquor license to the first informant. The applicant had met the first informant at Pachgani and, thereafter, there was a meeting with the co-accused regarding the transfer of liquor license for a consideration of

Rs.3,05,00,000/-. The first informant was induced to part with various amounts towards the said transaction.

4) The learned Counsel for the applicant submitted that it is not the allegation in the FIR that the applicant had made any inducement to the first informant. In the meeting in which the transaction of the transfer of liquor license was allegedly finalised, the applicant was not at all present. No amount has been credited to the account of the applicant. Therefore, the applicant deserves to be released on bail. Attention of the Court was invited to an order dated 21st February, 2024, in Bail Application No. 650 of 2024, whereby the co-accused Raju Manglani has been ordered to be released on bail, by this Court.

5) The learned APP and the learned Counsel for the first informant resisted the prayer for bail. The learned APP submitted that the applicant had impersonated himself as Vikrant Sonawane. There is a specific allegation against the applicant that the applicant had met the first informant in the month of December, 2021 and demanded Rs.10,00,000/- more for the transfer of the liquor license. Thus, the applicant does not deserve to be released on bail.

6) The learned Counsel for the first informant-intervener also submitted that having regard to the total amounts for which the first informant had been defrauded, in pursuance of the criminal conspiracy, the applicant does not deserve the exercise of discretion.

7) From the perusal of the allegations in the FIR, it prima facie appears that the allegations are primarily against the co-accused Ali Shaikh, whom the first informant had known from before. The inducement to transfer the liquor license also emanated from co-accused Ali Shaikh.

8) There is a substance in the submission on behalf of the applicant that though the first informant claims to have met the applicant, who then allegedly impersonated himself as Vikrant Sonawane on 6th October, 2021, yet, the first informant does not claim that the applicant participated in a meeting in which the terms of the transfer of the liquor licence were finalised. Nor the first informant claimed to have paid any amount to the applicant. On the contrary, in the FIR, the first informant claims that the applicant had demanded Rs.10,00,000/- more but the first informant did not pay.

9) As noted in the order dated 21st February, 2021, prima facie, it appears that despite the first informant having realised that there was something amiss with the transactions entered into with co-accused Ali, there were further transactions between the first informant and the said co-accused till February, 2022. A few cheques drawn by Ali Shaikh were dishonoured on presentment.

10) In the aforesaid view of the matter, whether the applicant allegedly impersonated himself as Vikrant Sonawane and was privy to the alleged conspiracy to defraud the first informant, are matters for trial.

11) The applicant has been in custody since 10th October, 2023. Investigation is complete for all intent and purposes. The charge-sheet has been lodged. In the circumstances of the case, further detention of the applicant does not seem to be warranted.

12) I am, therefore, impelled to exercise the discretion in favour of the applicant.

13) Hence, the following order.

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Aarif Ajmuddin Patel be released on bail in CR No. 421 of 2023, registered with Matunga Police Station, Mumbai, for the offences punishable under Sections 120B, 406, 420, 468, 471 and 506 (2) of the Indian Penal Code, 1860, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the trial Court.

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

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) The said amount shall abide the out come of the criminal case arising out of CR No. 421 of 2023.

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of 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.

[N. J. JAMADAR, J.]