

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1011 OF 2024

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Sadrealam Mastealam Khan ...Applicant
Versus

State of Maharashtra ...Respondent

Mr. Viral Rathod, a/w vishwatej Jadhav, Meet Vitthalani, i/b
Rakesh Singh, for the Applicant.

Mr. Shailesh Ghag, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.

DATED: 11th MARCH, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for bail in CR No.331 of 2023 registered with Bazarpeth Police Station, Thane, for the offences punishable under Sections 420, 465, 467, 468, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. The first informant lodged a report with the allegations that in the month of June 2020 he had been to his native place at Bihar, where the applicant and co-accused allegedly induced him to enter into the transactions to purchase 5 Are

land for a consideration of Rs.65,00,000/-. The first informant paid a sum of Rs.2,00,000/- to the applicant and co-accused Mantukumar Lall Babukumar and Samshad Mohammed Musthq Aalam by way of earnest. The first informant further alleged that on 18th September, 2020 a sum of Rs.5,00,000/- was paid to co-accused Mantukumar by a cheque and another sum of Rs.25,00,000/- was credited to the account of Mantukumar by RTGS. Later on, the first informant alleges, the applicant and co-accused resiled from their promise. Neither the land was conveyed nor the money was refunded. Hence, the report.

4. The learned Counsel for the applicant submitted that no money was credited to the account of the applicant. The sum of Rs.30,00,000/- was allegedly credited to the account of co-accused Mantukumar. The role attributed to the applicant is that of introducing the first informant to the co-accused.

5. The learned APP resisted the prayer for bail. It was submitted that the first informant had been defrauded of an amount of Rs.32,00,000/-. Investigation is underway. Therefore, the applicant does not deserve to be released on bail.

6. I have carefully perused the allegations in the FIR. Though the first informant alleges that the amount was paid to all the three accused, yet, it appears that a sum of Rs.30,00,000/- was credited to the account of Mantukumar, through banking channels. The first informant claimed to have paid sum of Rs.2,00,000/- in cash by way of earnest to all the three accused.

7. In the circumstances, having regard to the nature of the accusation whether the intention of the applicant and co-accused was dishonest since the very inception of the transaction or it was the case of failure to perform the promise may also warrant consideration. The applicant has been in custody since 10th January, 2024. Further detention of the applicant does not seem to be warranted.

8. At this stage, the learned APP submitted that the applicant is shown to be an absconding accused in another crime in Bihar. In the event, the applicant released on bail, it is unlikely that the applicant would be available for trial. The apprehension can be taken care of by imposing conditions.

9. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.331 of 2023 registered with Bazarpeth Police Station, Thane, on furnishing a PR Bond of Rs.30,000/- with one or two sureties in the like amount.
- (iii) The applicant shall mark his presence at the concerned police station on the first Monday of every alternate month between 10.00 am. to 12.00 noon for the period of two years or till framing of charge in the proceeding arising out of CR No.331/2023.
- (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.]