

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1396 OF 2023

Nanigopal Brindavan Das ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Hrishikesh Mundargi a/w. Mr. Meghdeep Oak, for the Applicant.
Mr. Y.M. Nakhwa, APP, for the Respondent/State.
Mr. P.D. Yerunkar, Shreenagar police station.

CORAM : N. J. JAMADAR, J.

DATE : JANUARY 17, 2024

P.C.:

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

2. The applicant who is arraigned in C.R. No. 129 of 2021 registered with Shreenagar police station, Thane for the offences punishable under section 420 of the Indian Penal Code, 1860 and section 66(D) of Information Technology Act, 2000 seeks to be enlarged on bail.

3. The gravamen of indictment against the applicant is that the applicant had shared his Aadhar card, Pan card and other documents of personal identification to the absconding accused Uttam Dey purportedly for securing an employment and the absconding accused had opened account in the name of applicant and got a sum of Rs. 40 lakhs transferred from the account of Fasad One International Private Limited and, subsequently, withdrew a

substantial amount from the said account.

4. The learned counsel for the applicant submitted that the applicant has been in custody since 9th January, 2022. The applicant had requested the bank to close the account immediately after he realized that there was something amiss with the transactions in his bank account. It was further submitted that out of the amount which came to be credited to the account of the applicant, a sum of Rs. 7,74,723/- has already been freezed. Attention of the Court was invited to the letter dated 29th September, 2021 addressed by the ICICI Bank in which the applicant has maintained the said account.

5. The learned APP resisted the prayer for bail. It was submitted that the applicant was the principal beneficiary of the fraud as the entire amount was credited to the account of the applicant. Moreover, according to his instructions, another crime has been registered against the applicant at Hare Street police station, Kolkata bearing C.R. No. 160 of 2021 with identical allegations. Therefore, the applicant does not deserve to be released on bail.

6. I have perused the report and the documents annexed with it. The prosecution alleges that the applicant/accused No. 1 had shared personal documents with absconding accused No. 2 Uttam for the purpose of securing employment. That creates a doubt about

the applicant being a privy to the offences since inception of the transaction.

7. In any event, the applicant has been in custody for more than two years. The offence punishable under section 420 of the Penal Code entails punishment which may extend to seven years. The trial, in the backdrop of the nature of the accusation, may take time. In the circumstances, further detention of the applicant does not seem to be warranted.

8. The apprehension on the part of the prosecution can be taken care by imposing conditions.

Hence, the following order.

ORDER

1] The application is allowed.

2] The applicant be released on bail in C.R. No.129 of 2021 registered with Shreenagar police station, 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.

3] The applicant shall mark his presence at Shreenagar police station, Thane on the first Monday of every alternate month in between 11 am to 1 pm till conclusion of the trial.

4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant,

any of the prosecution witnesses or any person acquainted with the facts of the case.

5] 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.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] 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 disposed.

(N. J. JAMADAR, J.)