

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2117 OF 2023

Ritesh Kumar Malay Dutta & Ors

...Applicants

vs.

The State of Maharashtra & Anr.

...Respondent

Mr. S. S. Pandey, i/b, Mr Ram Awadh Pandey, for the Applicant

Mr. S. R. Agarkar, APP, for the Respondent-State.

Mr. Ganesh Sorvani, for intervenor.

Mr. Sampad Aher, PSI, Vasai Police Station.

CORAM : N. J. JAMADAR, J.

DATE : 6th May, 2024

P.C.:

1. Heard the learned Counsel for the applicant, the learned APP for the State and learned Counsel for the first informant.

2. This is an application for pre-arrest bail in connection with C. R. No. 135 of 2023, registered with Vasai police station, for the offences punishable under Sections 420 and 406 read with 34 of the Indian Penal Code, 1860.

3. When the application was listed before the Court on 6th September, 2023, a joint statement was made before the Court that the parties are exploring the possibility of an amicable settlement of the dispute and thereupon it was directed that the applicant shall not be arrested till the next date. The said interim arrangement

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continues to operate.

4. The gravamen of indictment against the applicant is that the applicant had induced the first informant, his sister and friend to part with a sum of Rs.17,30,000/- on the pretext that the said amount was to be deposited with Reserve Bank of India and thereupon a sum of Rs.100 Crores, which was stuck in Dubai, where the applicant was allegedly working would be released, to instill confidence the applicant had allegedly taken the first informant to Dubai on 14th September 2022. In Dubai, the first informant realise that the applicant was not working with the Shaikh Hamdaan, as represented, and the applicant no. 1 had deceived the first informant, his sister and friends.

5. It was further alleged that the applicant nos. 2 and 3, the parents of the applicant no. 1 also made such representation and induced the first informant, his sister and friends to part with the amount. Hence, the report.

6. The learned Counsel for the applicant submitted that there was an altogether different transaction between the applicant no. 1 and the first informant. The letter had accompanied the applicant no. 1 and to went to Dubai and stayed there at Hotel in connection with the said transaction. The first informant has falsely alleged that the amount was paid in cash.

7. The learned APP and the learned Counsel for the first informant submitted that there are whatsapp chats which indicate that the applicant had received the money from the first informant, his sister and friend and acknowledged the liability. Since the sum of Rs.7,30,000/- has been credited through the Bank channel, custodial interrogation of the applicant is warranted to facilitate further investigation.

8. I have carefully perused the allegations in the FIR. Prima facie, it appears that there was a different transaction between the parties. The version of the first informant that the first informant, his friends and relatives, to part with a huge amount and on the count that applicant would get a sum of Rs. 100 Crore released from Dubai, prima facie, does not appeal to human credulity.

9. Undoubtedly, some financial transactions were between the applicant no. 1 and the first informant. However, having regard to the nature of the allegations in the FIR, the custodial interrogation of the applicant does not seem to be warranted. In any event, the offence under Section 420 Penal Code, 1860, entails punishment which may extend to seven years.

10. I am thus, inclined to exercise discretion in favour of the applicant.

11. Hence the following order:

ORDER

I) In the event of arrest of the applicant in connection with C. R. No. 135 of 2023, registered with Vasai police station, for the offences punishable under Sections 420 and 406 read with 34 of the Indian Penal Code, 1860, the applicant be released on bail on executing a PR Bond in the sum of Rs.30,000/-with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and henceforth appear before the investigating officer as and when directed.

III) 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.

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

V) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]