



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2497 OF 2023

GAUTAM SHIVKANT CHOUDHARY ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO. 179 OF 2024**

REKHA CHATTERJEE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Shilpa Kapil for the Applicant.

Adv. Ashley Cusher for the Intervener.

Mr. B.B. Kulkarni, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 26, 2024

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 420, 406, 506, 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 07/12/2022 vide C.R. No.I-382 of 2022 with Arnala Sagri

Police Station.

3. The applicant is the accused No.2. The applicant was arrested on 22/02/2023. The complainant was in search of a flat. The accused promised her that they will help her in purchasing a flat and accordingly asked her to transfer substantial sums of money in different bank accounts. The complainant transferred a sum of Rs.37,50,000/- in different bank accounts as informed by the accused.

4. Learned APP opposed the application and contended that the applicant is a mastermind. Though there is nothing on record to indicate that the applicant is the beneficiary of the amounts, the contention is that it is at the behest of the applicant the amounts were distributed to the other accused. It is submitted that two of the accused are absconding. It is further contended that the co-accused Anuj Mohanlal Shukla was enlarged on bail vide order dated 22/12/2023 in Bail Application No. 4134 of 2023 in view of the statement that he is willing to deposit a sum of Rs.7 lakhs in the trial Court. It is pointed out that there are criminal antecedents against the applicant of a similar

nature. The relatives of the applicant also tried to threaten the victim who is 81 years old woman. It is, therefore, submitted that this is not a fit case for grant of bail and the application be rejected.

5. The applicant was arrested on 22/02/2023 and is now in custody for more than a year. The charge has not yet been framed. The trial is likely to take a long time to conclude. The criminal antecedents should not be a factor in depriving the applicant facility of bail, having regard to the facts and circumstances of the present case. The investigation is complete and the charge-sheet is filed. There is nothing to show that the applicant is the beneficiary and in any case, the criminal proceeding can not be converted into a proceeding for recovery. I am inclined to enlarge the applicant on bail by imposing certain stringent conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Gautam Shivkant Choudhary in connection with C.R. No. 382 of 2022 registered with Arnala Sagri Police Station shall be released on bail on

his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Arnala Sagri police station once in a month, first Monday of every month, between 11.00 a.m. and 1.00 p.m.

(d) 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. The applicant shall not tamper with evidence.

(e) The applicant or his relatives shall not contact, threaten or intimidate the victim. If it is found that the applicant or his relatives tried to contact, threaten or intimidate the victim, the same shall be viewed seriously inviting consequences of cancellation of this bail.

(f) 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.

(g) The applicant shall not leave Thane and Palghar Districts after being released on bail, till the trial concludes.

(h) The applicant shall not enter the area of Miraroad

East where the victim is residing, till such time this condition is modified by the trial Court.

(i) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of in the above terms. Interim application also stands disposed of.

(M. S. KARNIK, J.)