IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3535 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 1380 OF 2023

Swati Kamlesh Molasi ..Applicant
Versus
The State of Maharashtra ..Respondent

WITH
INTERIM APPLICATION NO. 3536 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 1238 OF 2023

(1) Kamlesh Sudama Molasi,
(2) Rashmi Nilesh More. ..Applicants
Versus
The State of Maharashtra ..Respondent

Mr. Shailesh Kharat for Applicants in both IAs.
Mr. Avinash A. Naik, APP for State/Respondent.
Mr. Kunal Rane for the first informant.

CORAM : SARANG V. KOTWAL, J.
DATE : 20 MARCH 2024

P.C. :

1. These two interim applications are decided by this common order today because these applications are filed for claiming the relief in respect of the common order dated

04.05.2023 passed by a co-ordinate bench of this Court (Coram: Smt. Anuja Prabhudessai, J.) in A.B.A.No.1238 of 2023 and A.B.A.No.1380 of 2023. The learned Judge has since retired, therefore, the matters appear before this Court.

2. The prayers in the interim applications are for extending the time to deposit the amount and to modify the schedule of payment mentioned in the aforesaid order dated 04.05.2023; and for permission to deposit the balance amount of Rs.5 lakhs within a short period.

3. The applicants had sought pre-arrest bail in connection with C.R.No.I 148 of 2023 registered at Worli Police Station, Mumbai, under sections 408, 420, 465, 467, 468, 471 and 477 of the Indian Penal Code and U/s.65 of the Information Technology Act, 2000. The applicants had shown willingness to deposit the amount of Rs.15,81,526/-, which in the facts of the case were not refunded to the first informant.

The schedule of payment was as follows:

a. to be deposited Rs.4,00,000/- in 2 weeks.

b. Rs.1,81,526/- to be deposited on 15.06.2023.

c. Rs.2,50,000/- to be deposited on 15.07.2023.

d. Rs.2,50,000/- to be deposited on 15.08.2023.

e. Rs.2,50,000/- to be deposited on 15.09.2023.

f. Rs.2,50,000/- to be deposited on 15.10.2023.

4. On the basis of this undertaking, the applicants were granted protection U/s.438 of the Cr.p.c. The operative part of the said order reads thus:

> "Under the circumstances, the applications are allowed on the following terms and conditions:-
>
> (i) In the event of arrest of the Applicants in C.R.No.I – 148 of 2023 registered with Worli Police Station, Mumbai, the Applicants are ordered to be released on bail on furnishing PR bonds in the sum of Rs.25,000/- each with one or two sureties to the like amount;
>
> (ii) The Applicants shall report to the concerned Investigating Officer as and when required by the Investigating Officer;
>
> (iii) The Applicants shall deposit the money as per the schedule given in paragraph 5 of the affidavit. In the event of default in payment the money as agreed, the bail order shall stand recalled;

(iv) The Applicants shall not tamper with the prosecution evidence and or influence the witnesses in any manner.

(v) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time."

5. Learned counsel for the applicants submitted that, Rs.10,81,526/- are deposited as of today and only the last two installments of Rs.2,50,000/- each remained to be paid by 15.09.2023 and 15.10.2023 because the applicants could not arrange for that amount of Rs.5 lakhs; which can be deposited immediately. He submitted that the applicants had preferred these interim applications in the month of September 2023 itself.

6. Learned counsel for the first informant submitted that, Clause (iii) of the aforesaid order mentions that, in case of default in paying the money, the bail order was to stand recalled. He submitted that, the applicants have not given any acceptable reason for not complying with the undertaking given by the applicants themselves.

7. Learned APP left the matter to the discretion of the Court.

8. I have considered these submissions. As can be seen from the previous conduct, the applicants have substantially complied with the undertaking given by them. They have already deposited more than Rs.10 lakhs and the balance amount of Rs.5 lakhs is ready with them. They are ready to deposit the said amount within a short period. Considering this fact and their bonafide intention to deposit that amount, I am inclined to allow these interim applications.

9. Hence, the following order :

ORDER

i) The Applicants are permitted to deposit the balance amount of Rs.5,00,000/- in this Court within a period of 10 days from today.

ii) If such amount is deposited, it shall be treated as sufficient compliance of their undertaking mentioned in the order dated 04.05.2023 passed in A.B.A.No.1238 of 2023 and A.B.A.No.1380 of 2023.

iii) The deposited amounts shall be kept in Fixed Deposit to be renewed from time to time.

iv) In case of default of making this payment, this time around, the anticipatory bail order shall stand recalled; as mentioned in the order dated 04.05.2023.

v) With these observations, both the applications are disposed of.

(SARANG V. KOTWAL, J.)