

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2824 OF 2023
WITH
INTERIM APPLICATION NO.3756 OF 2023

Shashikala Ramesh Patankar

@ Baby Patankar

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Ashok Mundargi, Senior Advocate a/w. Mr. Ajay Bhise and Mr. Tejas Dhotre, for the Applicant.

Mr. Tanveer Khan, APP, for the Respondent/State.

Mr. Rajesh Singh a/w. Mr. Rahul Sing, Ms. Sarita Chaudhary and Mr. Bhavesh, for the Applicant in IA No. 3756 of 2023.

Mr. Prashant Gawali, PI, DCB CID, Mumbai.

CORAM : N. J. JAMADAR, J.

DATE : MAY 02, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 540 of 2023 registered at Worli Police Station (DCB CID, Unit-I, C.R. No. 60 of 2023) for the offences punishable under section 420 read with 34 of Penal Code, 1860.
3. When the application was listed before the Court on 18th October, 2023 this Court was persuaded to grant interim bail to the applicant.
4. Mr. Mundargi, the learned senior counsel for the applicant submitted that in accordance with the terms of the interim order, the applicant has appeared before the investigating officer on the

specified dates and cooperated with the investigation. No further material has been collected to establish the nexus between the applicant and the alleged transaction between the first informant and Parshuram Munde (accused No. 1).

5. Mr. Khan, the learned APP, submitted that the investigation qua Parshuram Munde (accused No. 1) has been completed and the chargesheet has also been filed. The learned APP reiterated that even before passing of the interim order, the investigating officer has recorded the statements of witnesses which indicated that a part of the amount, of which the first informant was defrauded, was handed over to the applicant. It was submitted that though the applicant appeared before the investigating officer, she has not rendered requisite cooperation especially as regards the recovery of the amount allegedly handed over to the applicant.

6. Mr. Rajesh Singh, the learned counsel for the first informant, submitted that there is material to indicate that the applicant and the first informant had also received money from the co-accused. Though chargesheet has been lodged against Parshuram Munde (accused No. 1), investigation can not be said to be effective as nothing has been recovered either from Parshuram Munde (accused No. 1) or the applicant. As the first informant has been defrauded of a huge amount, the applicant does not deserve the

relief of pre-arrest bail.

7. All these submissions were considered by this Court while granting interim bail. The Court had inter alia recorded as under:-

10] Prima facie, there is material to show that the transaction was primarily between the first informant and accused No.1 Parshuram Munde. Initially representation was made by Parshuram Munde. It is not the case that the applicant had induced the first informant to part with the amount by making a false representation to sell the gold. If properly construed, that inducement is attributable to accused No.1 Parshuram Munde. Even the invoices dated 21st October, 2021 were issued by RRM Gold Trading Pvt. Ltd. Likewise, the first informant claimed to have transferred the amount of Rs.1,27,58,229/- through RTGS to the account indicated by accused No.1 Parshuram Munde. At this stage, there does not seem to be any material to establish prima facie nexus between the entity to which the amount came to be credited and the applicant.

11] There is an element of delay in lodging the FIR. The alleged incident of deception occurred in the month of October, 2021. The complaint on behalf of the first informant was addressed on 12th September, 2022. In the said complaint also allegations were primarily made against accused No.1 Parshuram Munde.

12] In this view of the matter, I am impelled to hold that the applicant deserves interim protection as prima facie there is neither allegation of inducement nor material to connect the applicant with the amount, of which the first informant was allegedly defrauded.

8. Further investigation, post the aforesaid order, does not seem to have resulted in unearthing material qua the applicant. It appears that the transaction was primarily between the first

informant and Parshuram Munde (accused No. 1). On the basis of material, which has been collected during the course of investigation, post interim order, an inference cannot be drawn that the applicant has nexus with the account to which the money was allegedly transferred by the first informant. In the absence of any further material to connect the applicant with the alleged offence and the investigation having been completed for all intent and purpose, I am impelled to hold that the order of interim bail deserves to be made absolute.

Hence, the following order.

ORDER

- 1] The order of interim bail dated 18th October, 2023 is made absolute on the terms and conditions incorporated therein.
- 2] The applicant shall henceforth appear before the investigating officer as and when directed.
- 3] In the event chargesheet is lodged, the applicant shall regularly attend the proceedings before the jurisdictional Court.
- 4] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.
- 5] In view of above, Interim Application also stands disposed of.

(N. J. JAMADAR, J.)