

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3121 OF 2023

VISHAL
SUBHASH
PAREKAR

Najir Ali Asalam Ali Shaikh Farukhi

...Applicant

vs.

The State of Maharashtra

...Respondent

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VISHAL SUBHASH
PAREKAR
Date: 2024.02.08
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Mr. Arun Rajput a/w/. Mr. Viral Mukte and Mr. Vishnu Wani, for the Applicant.

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

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 5, 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.118 of 2023 registered with Shreenagar police station for the offences punishable under sections 120-B, 395 and 397 of Indian Penal Code, 1860, seeks to be enlarged on bail.

3. The indictment against the applicant is that the applicant in pursuance of a conspiracy with the co-accused induced the first informant to deliver a cash amount of Rs.10 lakhs against promised return of Rs. 12 lakhs by way of cheque, on the very day. The first informant believed the representation made by the applicant.

4. On 10th May, 2023 when the first informant boarded an auto-rickshaw with the persons who claimed to be the friends of the applicant, on his way to deliver the cash amount in return of the

promised cheque, 5-6 persons came in a Scorpio. They proclaimed to be the police. First informant was robbed of the sack containing cash amount of Rs. 10 lakhs by giving threat of causing harm by means of knife and stick.

5. Mr. Rajput, the learned counsel for the applicant submitted that the first informant has concocted a false story to avoid the payment of Rs. 10 lakhs which was received from the co-accused. The applicant has not been named by the co-accused Parvez, at whose instance a part of the cash amount, allegedly robbed of, was recovered. The applicant has been roped in on the basis of mere suspicion.

6. The learned APP resisted the prayer for bail. It was submitted that the first informant was robbed in pursuance of a criminal conspiracy. Part of the amount has been recovered. Therefore, the applicant does not deserve to be released on bail.

7. Prima facie, it appears that the first informant had become acquainted with the applicant barely few days prior to the alleged occurrence. The first informant knew the applicant by first name only. The veracity of the allegations in the FIR is required to be appreciated on the touchstone of probabilities of the first informant's version. That would be a matter for adjudication at the trial.

8. In any event, it is not the case that the applicant accompanied the first informant when the first informant was allegedly robbed. Nor any amount has been recovered pursuant to the disclosure statement. The co-accused at whose instance the amount was recovered, had not at all named the applicant.

9. In the circumstances, a prima facie case to exercise the discretion in favour of the applicant is made out.

Hence, the following order.

ORDER

1] The application is allowed.

2] The applicant be released on bail in C.R. No.118 of 2023 registered with Shreenagar police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant shall mark his presence at Shreenagar police station on the first Monday of every month 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.)