

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3177 OF 2023

Manoj Dilip Medhane ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Aniket Nikam alongwith Mr. Amit Icham, Mr. Piyush Toshniwal
and Mr. Satyajee Mane for the Applicant.

Ms. M.M. Deshmukh, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 5 JANUARY 2024

P.C. :-

. This application is filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 607 of 2021 registered at Satana Police Station, Nashik for the offences punishable under Sections 420, 406, 409, 464, 465, 467, 468, 469, 470, 471, 201, 120-B r/w. 34 of Indian Penal Code.

3. I have heard the learned Counsel for the applicant and the learned APP for the State.

4. The bail is sought on the ground of parity. The learned Counsel for the applicant submits that this Court by order dated 19 December 2022 in Bail Application No.664 of 2022 has released the

co-accused on bail to whom similar overt act is attributed. It is submitted that applicant is in jail for more than two years and is not likely to abscond if released on bail. It is further submitted that applicant without prejudice to his rights is willing to deposit an amount of Rs.10 lakhs.

5. On the other hand the learned APP for the State submits that considering the nature of offence, the applicant may not be released on bail.

6. I have perused the order passed by this Court dated 19 December 2022 in Bail Application No.664 of 2022. The said order reads thus :

“By this application, the Applicant is seeking bail in connection with C.R.No.I-607 of 2021 registered at Satana Police Station, Satana, Nashik, against the Applicant for the offences punishable under Sections 420, 406, 409, 464, 465, 467, 468, 469, 470, 471, 201, 120-B r/w Section 34 of the Indian Penal Code.

2. It is a case of the prosecution that at the relevant time, the Applicant was working with the HDFC Bank, Satana Branch, Nashik as a Loan Recovery Officer, whereas co-accused Manoj Medhane was working as Sales Executive. During the period from 2018 to August 2021, the Applicant and co-accused Manoj had illegally accepted money from the customers of the bank towards repayment of the loan amount and, instead of depositing the same with the bank, misappropriated the said money and had issued forged no objection certificates of the bank to the said customers.

3. Mr Abhinav Chandrachud, learned Counsel appearing on behalf of the Applicant, submitted that out of twenty four customers, only three customers had said against the Applicant. Out of these three customers,

two customers, namely Pradeep Deware and Ramesh Deware, have stated that they handed money to co-accused Manoj, and he took them to the present Applicant. There was some talk between the Applicant and co-accused Manoj, who told them that they would get the receipts of payments later on. These three witnesses also state that the co-accused Manoj then gave alleged no objection certificates of the bank. It is submitted that the alleged receipts were provided by co-accused Manoj and not by the Applicant.

4. It is submitted that the Applicant resigned from the bank on 15.12.2020, and after serving the notice, his resignation was accepted, and he was relieved from service on 12.03.2021. It is submitted that the alleged transaction had taken place somewhere in May 2021 and the NOCs issued to some of the customers were issued between March 2021 and August 2021 and hence, there was no occasion for Applicant to issue any such certificate to any of the customers.

5. It is submitted that the Applicant met with an accident on 10.02.2021. He was seriously injured and had undergone surgery on his right leg, and after that the Applicant never attended his office till 12.03.2021 when he was relieved from his work by the said bank. It is submitted that the Applicant had never met with these two witnesses, namely Pradeep Deware and Ramesh Deware, in the month of May 2021.

6. It is submitted that the Applicant himself wrote a mail to the various senior officers of the bank, asking them to conduct a detailed enquiry as he was not concerned with the fraud committed by co-accused Manoj. It is submitted that there are inconsistencies in the statement of witnesses. It is submitted that the role attributed to the present Applicant is not specific.

7. It is pointed out that the Applicant was arrested on 09.11.2021 during the investigation, and since then, he has been languishing in jail. It is submitted that the investigation was completed, and a charge sheet was

also filed. It is submitted that the object of the bail is neither punitive nor preventive. The object of bail is to secure the attendance of the accused at the trial. It is submitted that the allegation of interference with the witnesses by the Applicant is not correct. The Applicant never contacted the complainant nor the witnesses.

8. Mr A. R. Kapadnis, learned Additional Public Prosecutor appearing for the State, submitted that the offence was committed in well-planned design by the Applicant. The offence is serious. It is submitted that the Applicant was actively involved in the offence that led to the registration of the FIR against him. It is submitted that the amount of cheating is more than Rs.1 crore.

9. This Court has perused the Application, a copy of the chargesheet and the documents placed on record. The Applicant is languishing in jail since 09.11.2021. Considering the nature of the allegations in the present case, leading to the registration of the aforesaid offences, it is obvious that the evidence is primarily documentary in nature. The investigation has been completed, and the charge sheet has also been filed before the learned Trial Court. Whether or not the cheated money was entrusted to the Applicant is a matter of trial and cannot be taken into consideration at this juncture. Taking into consideration the voluminous nature of documents and the number of witnesses, which are to be examined by the prosecution, it will not be conducive to keep the Applicant incarcerated indefinitely during the period of trial. It is more so when the Applicant cannot be said to be at flight risk. The Applicant has remained behind bars for more than one year. There is nothing on record to show that the Applicant has criminal antecedents. This Court is, therefore, of the opinion that continued custody of the Applicant is no longer required and that the Applicant should be enlarged on bail.

10. In light of the above, this Court is inclined to grant bail to the Applicant. Accordingly, the Application

is allowed in the following terms :

- a) The Applicant Sharad Shivaji Ahire shall be released on bail in R.C.C. No. 4 of 2022 arising from C.R.No. I-607 of 2021, registered at Satana Police Station, Satana, Nashik, on furnishing a P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the concerned Court.
- b) The Applicant shall not himself or through any other person indulge in any activity that would tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.
- c) The Applicant shall furnish the permanent address and contact details to the Inspector of Police, Satana Police Station and intimate the change, if any.
- d) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

11. Needless to say, violation of any of the aforesaid conditions will make the Applicant liable for cancellation of bail.

12. All the parties to act on an authenticated copy of this Order. ”

7. In view of the above order passed by this Court, I am inclined to release the applicant on bail. Hence, the following order is passed:

- (i) Bail Application is allowed.
- (ii) The applicant - Manoj Dilip Medhane be released on bail in Crime No. 607 of 2021 registered at Satana Police Station, Nashik for the offences punishable under Sections 420, 406, 409, 464, 465, 467, 468, 469, 470, 471, 201, 120-B r/w. 34 of Indian Penal Code, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

- (iii) The applicant shall deposit an amount of Rs.10 lakhs before the trial court.
- (iv) The trial court shall not issue release warrant unless the said amount is deposited.
- (v) The applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of the trial.

(N.R. BORKAR, J.)