

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3362 OF 2023

Sachin Chandrakant Mane ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Shabnam Shaikh a/w. Mr. Himanshu Rai, for the Applicant.
Mr. S.R. Agarkar, APP, for the Respondent/State.
Mr. Sangarikar, API, Mira Road police station.

CORAM : N. J. JAMADAR, J.
DATE : FEBRUARY 28, 2024

P.C.:

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

2. The applicant a who is arraigned in C.R. No. 156 of 2023 registered with Mira Road police station for the offences punishable under sections 120-B, 420, 406, 465, 467, 468, 471 and 409 of Indian Penal Code, 1860 seeks to be enlarged on bail.

3. During the period January, 2021 to September, 2022 the applicant and the co-accused in pursuance of a criminal conspiracy, allegedly induced the first informant to part with money by falsely representing that the applicant was the Director of Bramid Export Pvt. Ltd. and the co-accused were the other Directors and employees with the said company. The applicant and co-accused by misusing the custody of the documents of the first informant, obtained loans from the banks and thereby defrauded her to the

tune of Rs. 61,10,343/-. The applicant and the co-accused falsely represented to the first informant that they will utilize the amount raised in the name of the first informant for a business and the first informant would have 5% share in the profits of the said business. The applicant and the co-accused neither returned the amount nor profits therein, as promised.

4. The learned counsel for the applicant submitted that there were financial transactions between the parties. Memorandum of Understanding was executed to incorporate the terms and conditions of those financial transactions. The applicant had drawn cheques towards repayment of the amount which he had obtained under the said agreement between the parties. As the applicant could not honor the commitment on account of the situation which arose due to Covid 19 Pandemic, the first informant has lodged a false report.

5. The learned APP resisted the prayer for bail. It was submitted that there is material to indicate that the amounts were credited to the account of the applicant.

6. The learned counsel for the applicant joined the issue by canvassing a submission that part of the amount which was allegedly paid by the first informant has been credited to the account of the co-accused and the applicant is not the sole

beneficiary. In any event, there was no intention to defraud the first informant.

7. I have perused the allegations in the FIR and the material on record. Prima facie it appears that in the initial days of the illegal transactions with the applicant, the first informant had an inkling that there was something amiss. Yet, it appears that there were a number of transactions between the parties over a period of time. A copy of the MOU purportedly executed in the month of August, 2022 between the first informant and the applicant and the affidavit affirmed by the applicant on 20th June, 2022 indicate that there were financial transactions between the parties and cheques were drawn by the applicant towards repayment of the amount which the applicant allegedly owed to the first informant.

8. In the circumstances, whether the intention of the applicant was dishonest since the inception of the transaction would be a matter for adjudication at the trial.

9. In any event, the investigation seems to be complete. The applicant is in custody since 7th May, 2023. It is unlikely that the trial can be concluded within a reasonable period.

10. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant be released on bail in C.R. No. 156 of 2023 registered with Mira Road 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 Mira Road police station on the first Monday of every month in between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.
- 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.)