

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

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DEEPAK
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CRIMINAL APPLICATION NO. 1350 OF 2023

Manik Ramnath Hase	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Kalpesh U. Patil, for Applicant

Mrs. G. P. Mulemkar, APP for State/Respondent No. 1.

Mr. Pawar, PI, AEC, Pimpri Chinchwad, Present.

Mr. N. R. Kale, HC,AEC, Pimpri Chinchwad, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 8th FEBRUARY, 2024.

ORDER:-

- 1) Heard the learned Counsel for the applicant and the learned APP for the State.
- 2) When the application was listed before the Court on 20th December, 2020, this Court had granted ad-interim relief observing, inter alia, as under:-

“...2. The applicant has preferred this application as the Court of Sessions while directing the release of the applicant on pre-arrest bail has imposed a condition that the applicant shall deposit Rs. 29,00,000/- prior to his release on bail and remaining

Rs. 29,10,245/- in two equal installments, within a period of three months from the date of the Order.

3. It does not appear that, the applicant had volunteered to make such deposit. It appears that the Court of Sessions, considering the material placed on record, found that the sum of Rs.59,10,245 has been accepted by the applicant.

4. An Order of release of an accused on pre-arrest bail can not be made conditional on deposit of the amount involved in the offence, unless the applicant volunteers to make a deposit to show his bonafide. That does not appear to be the case at hand.

5. In the circumstances till the application is heard, after providing an opportunity to the prosecution, the condition of deposit of the amount stands stayed...”

3) From the perusal of the impugned order, it appears that the learned Additional Sessions Judge has proceeded on the promise that an amount of Rs.59,10,245/- was accepted by the applicant from the witnesses in the subject crime and another entity and granted pre-arrest bail by imposing condition that the applicant shall deposit a sum of Rs.29,00,000/- prior to his release on bail and deposit the balance amount of Rs.29,10,245/-, two installments within a period of three months from the date of the said order.

4) Evidently, the applicant has not volunteered to make the said deposit.

5) In view of the recent pronouncement of the Supreme Court in the case of **Ramesh Kumar Vs. State of NCT of Delhi**¹, such condition of deposit of amount while ordering release of the accused on bail cannot be imposed.

6) The order does not indicate as to whether the Additional Sessions Judge found that the applicant had made out a case for grant of pre-arrest bail.

7) In view of the above, it may be expedient to allow the application and remit the Bail Application No.4945 of 2023 for afresh hearing in accordance with law and in the meanwhile, till the decision of the Bail Application No. 4945 of 2023, protect the liberty of the applicant.

8) Hence, the following order:

: O R D E R :

(i) The application stands allowed.

(ii) The impugned order dated 4945 of 2023 dated 9th October, 2023 stands quashed and set aside.

(iii) The learned Additional Sessions Judge shall decide the application No. 4945 of 2023 on its own merits and in accordance with law.

1 (2023) 7 SCC 461

(iv) In the meanwhile, in the event of the arrest, the applicant be released on bail in CR No.209 of 2020, registered with Hinjewadi Police Station, for the offences punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) (MPID) Act, 1999 on furnishing a P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount till the decision of Bail Application No. 4945 of 2023.

(v) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(vi) The applicant shall appear before the Investigating Officer as and when directed.

Application disposed.

[N. J. JAMADAR, J.]