



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3380 OF 2023**

Hussain Ahmed Tawakkal Khan

... Applicant

versus

The State of Maharashtra

... Respondent

WITH

INTERIM APPLICATION NO.759 OF 2024

Mr. Kushal Mor with Mr. Aamir Malik, for Applicant

Mrs. Geeta P. Mulekar, APP for State.

Ms. Payal Virdhan for complainant.

CORAM: N.J.JAMADAR, J.

DATE : 11 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.173 of 2023 for the offences punishable under Sections 120B, 420, 465, 466, 467, 468, 471, 472, 473 read with Section 34 of the Indian Penal Code, 1860.
3. The indictment against the applicant and the co-accused Wasim Shaikh and Vishnudev R. Mishar and the wanted co-accused is that the applicant and the co-accused had entered into a criminal conspiracy and in pursuance of the said criminal conspiracy, they induced the first informant and his wife Nasrin to part with a sum of Rs.73,50,000/- by making a false representation that the first informant and his wife would be provided MHADA tenements at a concessional rate. It is alleged that the

applicant had made an initial representation and had taken the first informant and his wife to the co-accused who represented themselves as MHADA officials. The First informant has allegedly paid cash amount of Rs.23,10,000/- to the applicant and a sum of Rs.30,000/- by cheque. Eventually, it was realized that the applicant and co-accused deceived the first informant and his wife.

4. Learned Counsel for the Applicant submitted that the role attributed to the applicant is identical to that of one Maksood through whom the first informant allegedly became acquainted with the applicant. Maksood has been cited as a witness. The allegation of inducing the first informant to pay huge amount is also not borne out by record as only a sum of Rs.30,000/- has been credited to the account of the applicant. Investigation is complete and the chargesheet has been lodged. Therefore, the applicant deserves to be released on bail.

5. In opposition to this, the learned APP and the learned Counsel for the first informant resisted the prayer for bail. It was submitted that the applicant was the kingpin of the racket. Apart from the instant case, there are four more persons who have made identical allegations against the applicant. It was further submitted by the learned Counsel for the first informant that the applicant had threatened the witnesses while he was on interim bail on medical ground. Moreover, the transplant of the wife of the applicant, for which the applicant was granted interim bail, was not performed during the said period.

6. I have perused the allegations in the FIR and the document annexed with the report under Section 173 of the Code of Criminal Procedure, 1973. Prima facie, it appears that the gravamen of indictment against the applicant is of inducing the first informant and his wife to part with amounts by making a representation that they would be provided tenement at a concessional rate. First informant and his wife claimed to have parted with a huge amount of Rs.73,50,000/-.

7. Though an amount of Rs.23,10,000/-, was allegedly paid to the applicant, only a sum of Rs.30,000/- came to be credited to the account of the applicant. It does not appear that during the course of investigation, any incriminating article was recovered from the house search of the applicant so as to connect him with the forgery of the documents which were allegedly delivered to show that the tenement was allotted to the first informant and his wife.

8. The investigation is complete for all intent and purpose. Chargesheet has been lodged. The applicant has been in custody for about six months. The trial will take time. In the circumstances, further detention of the applicant does not seem warranted. Moreover, since this Court has granted bail to the co-accused Vishnu, the applicant is also entitled to same dispensation.

9. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Hussain Ahmed Tawakkal Khan be released on bail in C.R.No.173 of 2023 registered with Kurla Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at Kurla Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of two years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, 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.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) 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.

(viii) Interim Application also stands disposed.

(N.J.JAMADAR, J.)