



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3425 OF 2023**

Mubarak Vahid Patel
versus
State of Maharashtra

... Applicant
... Respondent

Ms. Mansha Khemka with Ms. Twinkle Khemka with Ms. Shifa Kazi i/by Khemka and Associates, for Applicant.
Mr. Tanveer Khan, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 15 APRIL 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.32 of 2017 registered by EOW, Mumbai (original FIR No.112 of 2017 registered with Dahisar Police Station) for the offences punishable 120B, 419, 420, 465, 467, 468, 471 of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. The first informant, the then Chief Executive Officer and General Manager of the City Co-op. Bank Ltd., lodged a report with the allegations that since the month of February 2015, the borrowers Naval Chandak, Rashmi Chandak and the guarantors Navin Kumar Awasthi and Vijay Pandurang Chaudhary, in pursuance of a criminal conspiracy submitted forged and fabricated Agreement for Sale and other documents to fraudulently avail cash credit facility to the tune of Rs.3 Crores in the name of M/s. Blue Cross Networks and a mortgage loan of Rs.1.50 Crores and

wrongfully converted the said amount and thereby defrauded the bank.

4. During the course of investigation, it transpired that the applicant who was delivered copies of the documents by Munawar Bhagat to have legal advise and title search, used those copies to forge the original title deeds, which were eventually submitted to the bank to avail the loan. The applicant and the absconding accused, thus, forged the documents and used the forged documents as genuine.

5. Ms. Khemka, learned Counsel for the Applicant submitted that Manojkumar Pandey @ Naval Chandak (A1), Mujahid Rizwan Khan @ Navin Kumar Rajkumar Awasthi (A2) and Vijay P. Chaudhary @ Ajay R. Patil (A3) have been released on bail. Accused Nos.1 and 2 were the borrowers. The role attributed to the applicant is that of forging title deeds which were allegedly deposited with the bank to avail the loan. The applicant has been in custody since 6 February 2020. Therefore, the applicant deserves to be enlarged on bail on the ground of parity.

6. Learned APP resisted the prayer for bail. It was submitted that the applicant is a beneficiary of the fraud. The applicant had made himself scarce. He could be arrested in this crime only by taking production warrant when he was arrested in C.R.No.241 of 2016 registered with Khadakpada Police Station. The applicant has antecedents. Four crimes of cheating and forgery are registered against the applicant. Therefore, the applicant does not deserve to be enlarged on bail.

7. Evidently, the applicant is not one of the borrowers or guarantors of the

loan availed from the first informant's bank. The role attributed to the applicant is that of forging the instruments which were deposited by the borrowers to avail the loan from the bank. The prosecution alleges that there is evidence to indicate that a portion of the defrauded amount was credited to the account of the applicant.

8. The prayer of the applicant for bail is required to be appreciated in the light of the fact that the co-accused – borrowers have been released on bail. The applicant has been in custody since 6 February 2020. The question as to whether the applicant was the author of the alleged forged documents on the basis of which, loan was availed by the co-accused, would be a matter for adjudication at the trial. If the offence punishable under Section 467 of IPC is not attracted qua the applicant, then the major offence under Section 420 entails punishment which may extend to seven years. The applicant has been in custody for more than four years.

9. Indeed the antecedents of the applicant put the court on guard. Yet the period of incarceration as an under-trial prisoner is such that the antecedents do not disentitle the applicant from release on bail. The apprehension on the part of the prosecution can be taken care of by imposing conditions.

10. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Mubarak Vahid Patel be released on bail in C.R.No.32

of 2017 registered by EOW, Mumbai on furnishing a PR bond in the sum of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence before EOW, Mumbai on first Monday of every month between 11 am to 1 pm for a period of three 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 surrender his passport before the jurisdictional Magistrate and shall not leave the country without the prior permission of jurisdictional Magistrate.

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

(viii) 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.)