



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

BAIL APPLICATION NO.3512 OF 2023

RAJESH KESHAVALAL THUMAR	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Adv. Ranjeet H. Patil a/w Adv. Sumitkumar S. Nimbalkar a/w
Adv. Kalpana V. Chate for the Applicant.

Mr. S. H. Yadav, APP for the State.

API Nilesh Patil, Crime Unit-1, Vashi, Navi Mumbai.

CORAM : M. S. KARNIK, J.

DATE : MARCH 14, 2024

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail in respect of the offence punishable under Sections 420, 406, 402, 395, 170, 201, 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 14/10/2022 vide C.R. No.172 of 2022 with CBD Belapur Police Station, Navi Mumbai.
- 3.** The present applicant - Rajesh Keshavlal Thumar is accused No.5. I may refer to the order dated 11/10/2023 passed in Bail Application No. 1112 of 2023 filed by the co-accused Zuber Abdul Salam Divekar which sets out the facts

of the case. The same reads thus:

"2. This is an application for bail in respect of the offence punishable under Sections 406, 402, 395, 170, 201, 420, 120-B, 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 14.10.2022 vide C.R. No.172 of 2022 with CBD Belapur Police Station, Navi Mumbai.

3. There are in all 13 accused. The applicant is the accused No.3. The applicant was arrested on 13.11.2022. The FIR was registered on 14.10.2022. The date of the incident is 26.09.2022. The prosecution case in brief is thus :-

The complainant was desirous to pay the bonus to his workers. He was keen to pay the workers bonus in cash for which he wanted brand new crisp notes. Accordingly one acquaintance of the complainant named Ajay informed the complainant that Vishal (accused No.1) can help him get new notes in exchange of the old notes. The accused No.1 in turn introduced the complainant to the co-accused – Moin Kadri. Moin Kadri has filed an application for anticipatory bail and he is granted interim protection. Moin Kadri in turn introduced the complainant to one Sushant Kulkarni who claimed to be working with the Reserve Bank of India (RBI). Sushant Kulkarni was a fictitious name adopted by the accused - Kiran Sansari for the purpose of committing this crime. Kiran Sansari represented that an amount of Rs.10 Crores is required as in view of the policy of RBI, only if the value of the notes to be exchanged is Rs.10 crores, then the new notes can be given by RBI.

4. The complainant informed Kiran Sansari that he has a sum of Rs.3.5 crores in old notes. Vishal (accused No.1) further agreed to arrange for a sum of Rs.1.5 crores for such conversion. Kiran Sansari accordingly agreed to get new notes in exchange on the old notes of Rs.5 crores. On the date of the incident Kiran Sansari accompanied by the complainant, Vishal and Moin Kadri went near the treasury office. Kiran Sansari informed the complainant that only he is permitted to enter the premises. He therefore took the sum of Rs.5 crores

inside the treasury office. After some time Kiran Sansari came out. Kiran Sansari kept the money in a pick up van which was standing outside the treasury office citing some procedural reasons and asked the complainant to follow him.

5. Here comes the role of the applicant. This pick up van was being driven by the present applicant – accused No.3. After the pick up van was driven for some time, one Innova car came in the way of the said pick up van. The pick up van was forced to stop. Some other accused, who got down from the Innova vehicle boarded the pick up van. The pick up van was driven away by the accused persons. The complainant lost track of the pick up van. It appears that on the next day co-accused – Kiran Sansari kept on assuring the complainant that the money will be handed over to the complainant soon, as there is some vigilance angle which has come in the way. It was later realised by the complainant that he was duped.”

4. Learned APP opposed this application for bail. So far as the present applicant is concerned, it is alleged that he is the conspirator and he was also instrumental in hatching the plan to commit the alleged offence. It is submitted by learned APP that the materials on record in the form of exchange of calls and the statement of the applicant shows that the applicant was to receive a sum of Rs.50,00,000/- from the amount of Rs. 3,50,00,000/- towards his share. An amount of Rs.47,00,000/- has been recovered at the instance of the applicant. A total sum of Rs.1,42,35,000/- has been recovered from the accused including the applicant. The

balance amount has not been recovered.

5. The applicant has not participated in the actual incident. He is alleged to be the conspirator. Out of the amount of Rs.50,00,000/- which allegedly came to the applicant's share, Rs.47,00,000/- has already been recovered. The applicant is arrested on 09/12/2022 and is now in custody for more than 1 year and 3 months. The investigation is complete. The charge-sheet is filed. I am informed that even the charge is yet to be framed. The trial is not likely to conclude any time soon. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Continuing the incarceration of the applicant will amount to pre-trial punishment. The applicant will face the consequences post-trial if he is found guilty. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail imposing certain conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Rajesh Keshavlal Thumar in connection with C.R. No.172 of 2022 registered with

CBD Belapur Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.

(c) The applicant shall report to the Crime Branch, Unit-1, Navi Mumbai, twice a month, first and third Monday of every month, between 11.00 a.m. and 1.00 p.m.

(d) 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. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Crime Branch, Unit-1, Navi Mumbai, and shall keep him updated, in case there is any change.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)