

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3590 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Ismail Sheraj Shaikh ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Ravi Gupta, for the Applicant.

Mrs. Geeta Mulekar, APP for the State/Respondent.

Ms. Ranjana Humane, i/b Ganesh Sovani, for the
Complainant - Bank.

API Vidya Patil, Khadakpada Police Station present.

CORAM: N. J. JAMADAR, J.

DATED: 17th JANUARY, 2024

ORDER:-

1. Heard the learned Counsel for the parties.
2. By this application under Section 439 of the Code of Criminal Procedure, 1973 ("the Code") the applicant seeks to be enlarged on bail in CR No.164 of 2022 registered with Khadakpada Police Station, Thane, for the offences punishable under Sections 120B, 406, 409, 420, 465, 467, 468, and 471 of the Indian Penal Code, 1860 ("the Penal Code").
3. The indictment against the applicant and 29 co-accused is that the applicant and the co-accused had induced the Cosmos Co-operative Bank to advance home loan to the

borrowers, who have also been implicated as accused on the basis of forged and fabricated documents. The specific accusation against the applicant is that the applicant works as an agent to secure the home loan. The applicant alongwith another accused, who also works as an agent had helped the borrowers in preparing the false and fabricated documents.

4. The learned Counsel for the applicant submitted that co-accused Datta Avhad, who works as an agent and a friend of the applicant has already been released on bail by this Court by an order dated 4th October, 2023. The allegations against the applicant are vague and omnibus. The applicant has been roped in only on the count that he works as an agent.

5. The learned APP countered the submissions on behalf of the applicant. Attention of the Court was invited to the submissions of borrower namely Gitanjali Morvekar. She stated that initially the work of securing home loan was entrusted to co-accused Raj and Yogesh. They had called her at Cosmos Bank, Kalyan Branch. In the said branch the applicant and co-accused Yogesh were present alongwith the home loan file. The applicant and the co-accused made her to sign the loan documents without allowing her to peruse the

contents thereof. Later on, it transpired that Yogesh and applicant were arrested.

6. *Prima facie*, the accusation against the applicant appears to be omnibus. Even the statement of the Gitanjali Morvekar does not *prima facie* bear the weight of the accusation against the applicant.

7. Co-accused Datta Avhad, another agent, who has been released on bail also seem to have been attributed with almost identical role. The applicant is in custody since 20th April, 2023. Investigation is complete. Charge-sheet has been lodged. Further detention of the applicant does not seem warranted.

8. The apprehension on the part of the prosecution, based on the antecedents of the applicant on account of registration of two more crimes against the applicant in Khadakpada and Borivali Police Station can be taken care of by imposing stringent conditions.

9. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant Ismail Sheraj Shaikh be released on bail in CR No.164 of 2022 registered with Khadakpada Police Station, Thane, on furnishing a P.R. Bond of

Rs.30,000/- with one or more sureties in the like amount to the satisfaction of the learned Magistrate.

- (iii) The applicant shall mark his presence at the concerned police station on the first Monday of every alternate month in between 10.00 am. to 12.00 noon for the period of three years or till 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.

Application stands disposed.

[N. J. JAMADAR, J.]