



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3647 OF 2023**

Abdul Qayyum Abdul Rehman Shaikh

@ Kayyum Pyarali Keshwani

... Applicant

versus

State of Maharashtra

... Respondent

Mr. I.A.Khan with Mr. M.A.Khan, for Applicant.

Mr. S.R.Agarkar, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 22 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.

2. This is an application for bail in connection with C.R.No.912 of 2022 registered with Sakinaka Police Station for the offences punishable under Sections 182, 193, 420, 447, 451, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code.

3. The first informant lodged a report with the allegations that the applicant in conspiracy with Kaiyum Keshwani abused the custody of power of attorney given by the first informant to probate the Will of Anubai Augastine and forged the Power of Attorney purported to be executed on 2 August 2021 and by making use of the forged documents as genuine, executed a leave and licence agreement with Mohd. Ishtiyahq Anwar Ali Shaikh, giving the property on licence for a

term of five years and misappropriated an amount of Rs.54,00,000/-.

4. Learned Counsel for the Applicant submitted that the applicant has already returned the amount of Rs.54,00,000/- to the party from whom the said amount was received under the Instrument in question. Attention of the Court was invited to the extract of account (Exhibit G colly.). Learned Counsel further submitted that the allegation that the power of attorney was got executed by setting up an impostor is belied by the certificate of Notary dated 9 July 2023 (Exhibit F colly) to which the extract of Notarial Register is annexed. The said extract indicates that Qayyum Keshwani had executed the said document in the presence of the Notary.

5. Learned APP resisted the prayer for bail. It was submitted that the custody of the general power of attorney which was for a limited purpose was abused to execute an instrument of leave and licence.

6. I have perused the allegations in the FIR and the documents annexed with the report under Section 173 of the Code of Criminal Procedure, 1973. It appears that the dispute revolves around the genuineness of the Instrument which was purportedly executed by the first informant. The offences revolve around the documents. The applicant has been in custody from 7 November 2022. There is prima facie material to indicate that a sum of Rs.54,00,000/- has been returned.

7. In the circumstances, further detention of the applicant does not seem to be warranted. The applicant appears to have roots in society. Possibility of tampering

with evidence and fleeing away from justice appears to be remote. I am, thus, inclined to grant bail to the applicant.

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant - Abdul Qayyum Abdul Rehman Shaikh @ Kayyum Pyarali Keshwani be released on bail in C.R.No.912 of 2022 registered with Sakinaka 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 before Sakinaka Police Station on first Monday of every month in between 11 am to 1 pm for a period of two years or till the conclusion of the trial.

(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 disposed.

(N.J.JAMADAR, J.)