



Diksha Rane

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

BAIL APPLICATION NO.3775/2022

RAJESH NARENDRA MEWAWALA ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.412/2023
IN
BAIL APPLICATION NO.3775/2022**

PREETI JAYESH THAKKER ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Shubhada Khot for the applicant.
Smt. Sangeeta D. Shinde, APP for the State.
Adv. D. S. Joshi a/w. Adv. Mukesh Gupta, Adv. Anit Pandey for
the complainant.

CORAM : M. S. KARNIK, J.

DATE : MARCH 18, 2024

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. This is an application for bail in respect of C.R.No. 598 of 2021 dated 26/07/2021 registered with Byculla Police Station for the offence punishable under sections 406, 409, 420, 465, 467, 468, 471, 34, 120B of the Indian Penal Code,

1860.

3. On 3/2/2023, this Court while releasing the applicant on temporary bail passed the following order:-

“1. Heard learned counsel for the applicant, learned APP and learned counsel for the complainant.

2. This is an application for bail in respect of C.R.No. 598 of 2021 dated 26/07/2021 registered with Byculla Police Station for the offence punishable under sections 406, 409, 420, 465, 467, 468, 471, 34, 120B of the Indian Penal Code, 1860.

3. The complaint is lodged by one Preeti Thakkar. There are in all 4 victims, the complainant being one of them. For the reasons hereafter mentioned, I do not propose to dispose of the application but think it appropriate to grant temporary bail to the applicant. It is alleged that by use of the forged documents, the applicant, his wife and daughter have cheated the complainant. On the basis of the documents obtained from the complainant, a loan was obtained, but the same was appropriated by the applicant. The applicant is in custody from 29/07/2022. The investigation is complete and the charge-sheet has been filed.

4. Learned counsel for the applicant submitted that the applicant is willing to repay the entire amount. An affidavit has been filed indicating that a sum of Rs. 5 lakhs will be deposited with the trial Court within a period of 2 weeks from the date of release of the applicant to show his bonafides. Further, in paragraph 12 of the affidavit, it has been stated that Bank of India

has a One Time Settlement Scheme by which the outstanding amounts and non-performing assets can be repaid by the borrowers. The applicant submitted that he would endeavour to avail the benefit of the said scheme and repay the entire amount due in the account of the complainant-Preeti Thakkar and witness Khushbu Jain in the present C.R. No. 598 of 2021. As the applicant is desirous to repay the outstanding amount, instead of keeping him in custody, I intend to release the applicant on temporary bail to test his bonafides.

5. Pending this application, the applicant-Rajesh Narendra Mewawala in connection with C.R.No. 598 of 2021 dated 26/07/2021 registered with Byculla Police Station shall be released on temporary bail for the period of 3 months on his furnishing P.R. bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

6. The applicant is permitted to furnish cash bail surety in the sum of Rs. 50,000/- for a period of 6 weeks in lieu of surety.

7. The applicant to surrender his passport to the trial Court at the time of his release on bail.

8. The applicant shall not leave the jurisdiction of Mumbai.

9. The applicant to attend the concerned Police Station on every alternate day commencing from the next day of his release between 6.00 p.m. to 7.00 p.m.”

4. The accusations in brief are that the applicant induced the complainant Preeti Thakker to avail a loan of Rs.45 lakhs

from Bank of India. Though the loan was sanctioned, the complainant was not informed about the said fact. It is alleged that the amount of Rs. 45 lakhs was transferred in favour of the applicant.

5. It is the contention of learned counsel for the complainant that outstanding shown in the name of the complainant with interest is to the tune of Rs. 87 lakhs as of now.

6. When the order dated 3/2/2023 was passed, it was indicated that the applicant would endeavour to avail the benefit of the One Time Settlement Scheme and repay the entire amount due in the account of the complainant - Preeti Thakker and witness Khushbu Jain in the present C.R.No.598/2021. It is further recorded that as the applicant was desirous to repay the outstanding amount, instead of keeping him in custody, this Court released the applicant on temporary bail to test his bonafides. It is now submitted that no progress has been made so far as the scheme is concerned.

7. Learned counsel for the complainant submitted that there has been no cooperation from the side of the

applicant. This is controverted by learned counsel for the applicant. The facility of bail cannot be deprived to the applicant only because the One Time Settlement Scheme proposal is not materialising.

8. Learned counsel for the applicant has filed an affidavit dated 13/3/2024 in this Court. The relevant portion of the affidavit reads thus:-

“3. I say and submit that earlier on 02.02.2023, I had filed an Affidavit placing on record that almost 40 Bank Accounts belonging to various Companies as well as me and family members have been frozen. I had also placed on record that no property with clear title, is in my name or of my family.

4. I say and submit that I have made all out efforts to cooperate with the Complainant Mrs. Preeti Thakkar for availing OTS Scheme for the repayment of her dues towards the Bank of India, however, for want of cooperation, the same is yet pending.

5. I say and submit that from whatever limited sources at my command and, with the help of friends and well-wishers, without prejudice to my legal rights and contentions and, the outcome of the subject litigation, and in order to show my bonafides, I am ready and willing to deposit Rs.50 lakhs in the Trial Court as under :

14.03.2023	Rs.5,00,000/-	deposited in the Court of the learned Metropolitan Magistrate, Mumbai
31.03.2024	Rs.5,00,000/-	
15.04.2024	Rs.5,00,000/-	
15.05.2024	Rs.5,00,000/-	

15.06.2024	Rs.7,50,000/-	
15.07.2024	Rs.7,50,000/-	
15.08.2024	Rs.7,50,000/-	
15.09.2024	Rs.7,50,000/-	
	Rs.50,00,000/-	

Copy of the Receipt dated 14.03.2023 of Rs.5,00,000/- deposited in the Court of the learned Metropolitan Magistrate, is hereto annexed as Annexure-"I".

9. The applicant was in custody for a period of nine months prior to his release on temporary bail. Post his release on temporary bail, the applicant has reported to the investigating officer in compliance with the order passed by this Court. The present proceedings cannot be converted into a recovery proceeding. It is open for the complainant to avail appropriate remedies in accordance with law to seek action against the applicant. However, the statements made in the affidavit dated 13/3/2024 need to be accepted as an undertaking to this Court. The applicant undertakes to abide by the statements made in the affidavit. The amount to be deposited in the Court of the Metropolitan Magistrate, Mumbai, in the terms of what is stated in the affidavit.

10. In this view of the matter, I am inclined to enlarge the

applicant on bail as the applicant cannot be kept in custody by way of pre-trial punishment. The applicant will face the consequences post-trial if found guilty. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Rajesh Narendra Mewawala in connection with C.R.No. 598 of 2021 dated 26/07/2021 registered with Byculla Police Station shall be released on bail on his furnishing P.R. bond in the sum of Rs.50,000/- with one or two local sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Byculla police station once in a month on every first Monday of the month between 11.00 a.m. and 1.00 p.m. commencing 1st of April, 2024.
- (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 Investigating Officer 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.

(g) The applicant shall not leave India without prior permission of the Investigating Officer.

(h) The applicant has already surrendered his passport to the investigating officer.

(i) Liberty to apply for cancellation of bail in case of any breach of the statements made in the affidavit.

(j) The trial Court is requested to expedite the trial in the peculiar facts of this case.

(k) The order dated 3/2/2023 to continue for a period of 8 weeks or till the applicant furnishes sureties whichever is earlier.

11. The application is disposed of.

12. The interim application is also disposed of.

(M. S. KARNIK, J.)