

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4199 OF 2023

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Reshma Rabul Mandal

...Applicant

vs.

The State of Maharashtra

...Respondent

Dr. Samarth Karmarkar i/b. Karmarkar & Associates, for the Applicant.

Mr. S.R. Agarkar, APP, for the Respondent/State.

Mr. Bajrang Jagtap, API, Bandra police station.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 7, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant, who is arraigned in C.R. No.931 of 2023 registered with Bandra police station for the offences punishable under sections 409 and 420 of Indian Penal Code, 1860, seeks to be enlarged on bail.

3. Smt. Martha Montero is the mother of the first informant. She had maintained an account with Kotak Mahindra Bank, Bandra (w) branch. The applicant was working as a Relationship Manager with the said bank. In the capacity of the banker, the applicant made the mother of the first informant to repose trust in her. Thereafter, the applicant has allegedly siphoned off Rs. 67,20,333/- from the account of the mother of the first informant and the said amount

was diverted to the accounts of the applicant, her friend and relatives. The applicant came to be arrested on 10th July, 2023.

4. The learned counsel for the applicant submitted that even before lodging the FIR, the applicant returned an amount of Rs. 35,29,870/-. Attention of the Court was invited to the narration in the gist of the prosecution case in the charge-sheet. The learned counsel for the applicant submitted that there were financial transactions between the applicant and the mother of the first informant. At no point of time, the applicant had deceived the mother of the first informant. Since a major part of the amount has already been recovered, further detention is not warranted.

5. Learned APP resisted the prayer for bail. It was submitted that the mother of the first informant is more than 80 years of age. Taking undue advantage of the situation in life of the mother of the first informant, the applicant had committed breach of trust. Since the offence punishable under section 409 of the Penal Code is prima facie made out and it entails punishment which may extend to imprisonment for life, the applicant does not deserve to be enlarged on bail.

6. I have perused the application and material on record. Evidently, there are circumstances which indicate that the applicant was in a position to gain confidence of the mother of the

first informant. The applicant had allegedly diverted the amount of Rs. 67,20,333/-. It is also a fact that out of the said amount Rs. 35,29,870/- has already been recovered.

7. At this stage, the fact that the applicant is a woman and has been in custody since 10th July, 2023 deserves to be taken into account. Investigation is complete for all intent and purpose. Charge sheet has already been filed. The applicant appears to have roots in society. Possibility of tampering with evidence and fleeing away from justice, seems to be remote. Further detention of the applicant does not seem warranted.

8. I am, therefore, inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant be released on bail in C.R. No.931 of 2023 registered with Bandra police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

3] The applicant shall mark her presence at Bandra police station on the first Monday of every alternate month in between 11 am to 1 pm till conclusion of the trial.

4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

5] The applicant shall furnish her contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] 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.)