

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 426 OF 2024

Tushar Bhimrao SID ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Sagar Tilak with Mr. Sachin hande with Payal Rathod and Yash Agarwal I.by Sachin Hande, for the Applicant.

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

Mr. Kuldeep Nikam, for respondent no. 2.(appointed).

Mr. Nilesh Jadhav, PSI, Kalamboli Police Station,

CORAM : ANIL S. KILOR, J.

DATE : 25TH JUNE, 2024.

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1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.0192 of 2022 registered with Kalamboli Police Station for the offences punishable under Sections 420, 170, 171 read with 34 of the Indian Penal Code, 1860 (for short, 'IPC').
3. The learned counsel for the applicant submits that the applicant has not received any amount in this matter, whereas,

whatever amount is received was back to back transferred to the accused no. 1. He submits that there is a delay in lodging the FIR. He further submits that since the charge-sheet has been filed further custody of the applicant is not necessary.

4. On the other hand, the learned APP strongly opposed the application and submits that on a false promise to provide a employment to nine victims Rs. 42,00,000/- were taken by the both the accused persons out of which Rs. 20,78,0000/- was received by the applicant. It is submitted that after the lodgment of the report from September 2022 till 30th May 2023, the applicant was not available and traceable. It is pointed out that even he was requested to attend the police station by giving him WhatsApp messages to which he did not respond. It is therefore, submitted that if the applicant is released on bail, there is every possibility that he may not available for trial.

5. The learned counsel for the respondent no. 2 reiterates the submission of learned APP and submits that the applicant who is no way connected with the Military, used to wear the Military uniform to pose himself before the victim as working in the Military. It is, therefore, submitted that the applicant's role was the important role in the alleged offence. Accordingly, he prays for rejection of the bail application.

6. Having considered the material collected by the IO during the investigation, it is evident that all the time the applicant posed himself as working in the Military and they in this way cheated all the nine persons and collected Rs. 42,00,000/- on a false promise of

providing employment to them.

7. At this stage, it is not relevant whether the applicant who is accused no. 2 transferred the complete amount received by him i.e. Rs. 20,78,000/- to the accused no. 1 or not. The fact remains that *prima facie* there is evidence to show that he is directly involved in the alleged offence. In that view of the matter, considering the seriousness of the offence, I am not inclined to grant bail. Hence, the application is rejected.

8. Liberty is granted to the applicant to apply a fresh before trial Court after one year if there is no progress in the trial.

9. Fees of Mr. Kuldeep Nikam advocate appointed to represent respondent no. 2 be quantified as per the Rules.

(ANIL S. KILOR, J)