

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.4818 OF 2024

Ajit Dayashankar Mishra	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Ms. Kusum Pandey a/w Jitendra Tiwari and Poonam More, for the applicant.

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

Mr. Taraq Sayed with Ashwini Achari, for the intervenor.

Manisha Patil, Naigav Police Station, Present.

CORAM : ANIL S. KILOR, J.

DATE : 5TH DECEMBER, 2024.

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PC:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.300 of 2024, registered with Naigaon Police Station, Palghar, for the offences punishable under Sections 420 and 403 of the Indian Penal Code, 1860 and Section 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.
3. Having gone through the charge-sheet and the relevant material collected by the IO during the investigation, it is evident that

the dispute is about the non compliance of certain promises relating to an agreement to sell the land in question. On considering the allegations made in the FIR, I am of the opinion that it relates to the specific performance of a contract which is obviously of a civil nature.

4. Mr. Taraq Sayed, the learned counsel for the informant, however, strongly opposed the application on the ground that the applicant has also filed a Writ Petition seeking bail and as two remedies have been availed for the same relief, this application is not maintainable.

5. In reply, the learned counsel for the applicant submits that though there is a prayer made in the Writ Petition to release the applicant, the said prayer is based on illegal arrest. Whereas, in the present matter, the applicant is seeking bail under Section 439 of the Cr.P.C. She therefore, submits that the present application as well as the Writ Petition are maintainable.

6. In the circumstances, the fact remains that the present application is filed under Section 439 of Cr.P.C which is a remedy for a person arrested in a crime, to seek bail.

7. In the circumstances, for the reasons that the Writ Petition is pending to hold that, the arrest itself is illegal, this application cannot be rejected.

8. As far as FIR is concerned, as I have already recorded that the dispute prima facie appears to be of specific performance of a contract, I am of the opinion that the applicant is entitled for grant of bail.

9. In the circumstances, I pass the following order:

ORDER

- i) Criminal application is allowed;
- ii) It is directed that the applicant be released on bail in Crime No.300 of 2024, registered with Naigaon Police Station, Palghar, for the offences punishable under Sections 420 and 403 of the Indian Penal Code, 1860 and Section 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999, on furnishing P.R.Bond of Rupees Twenty-Five Thousand with one solvent surety in the like amount;
- iii) The applicant shall attend the said Police Station on 1st day of every month between 10.00a.m. to 11.00 a.m., till the conclusion of the trial except on the date of trial;
- iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;
- v) Liberty is granted to the State to apply for cancellation of bail in case the applicant breaches any condition or commits similar offence;
- vi) The applicant shall attend the trial before the trial Court regularly on every date unless exemption is granted

by the trial Court.

The application is disposed of.

(ANIL S. KILOR, J)