

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1554 OF 2024

Ramesh Pawar @ Adnan Imran Niyazi ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Tohid Shaikh i/b. Ms. Anjali Patil, for the Applicant.
Mr. P.P.Jadhav, APP, for the Respondent/State.
Mr. Laxman Ukirde, PI, Kurla police station.

CORAM : N. J. JAMADAR, J.
DATE : JUNE 13, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No. 173 of 2023 registered with Kurla Police Station for the offences punishable under Sections 120-B, 420, 465, 466, 467, 468, 471, 472, 473 read with 34 of the Indian Penal Code, 1860 ("the Penal Code").
3. The indictment against the applicant and the co-accused Hussain Khan, Wasim Shaikh and Vishnudev Tripathi is that, the applicant and the co-accused had entered into a criminal conspiracy and in pursuance of the criminal conspiracy, they induced the first informant and his wife Nasreen Shaikh to part with a sum of Rs. 73,50,000/- by making a false representation that the first informant and the victims would be provided MHADA

tenements at a concessional rate. Qua the applicant, it is alleged that the applicant impersonated himself as an official of MHADA and he had proclaimed that he had good rapport with the senior officers and would get the tenements allotted to the victims.

4. Mr. Shaikh, the learned counsel for the applicant, submitted that all the co-accused have been released on bail. Vaseem Shaikh was granted pre-arrest bail by an order dated 17th August, 2023. Vishnudev Tripathi was released on bail by this Court by an order dated 2nd February, 2024 and Hussain Khan, the principal accused, was released on bail by an order dated 11th March, 2024. Soheb Khan was subsequently released on bail by an order dated 26th April, 2024.

5. Inviting the attention of the Court to the observations in the aforesaid orders, it was urged that the role attributed to the applicant is identical to that of the co-accused who have been already released on bail. Therefore, at this stage, when the investigation is complete and charge sheet has been lodged against the co-accused, the arrest and detention of the applicant is unwarranted. Hence, the applicant be enlarged on bail.

6. In opposition to this, the learned APP strongly resisted the prayer for bail. It was submitted that the applicant was principal confederate in the conspiracy to deceive the first informant and his

wife. The applicant impersonated himself as a high ranking official of MHADA. The applicant had accepted money from the first informant and from the victims. Moreover, the applicant had executed an affidavit cum undertaking along with the co-accused acknowledging that he had obtained a sum of Rs. 45,50,000/- for selling a MHADA flat. It was further submitted that the applicant has made himself scarce and despite diligent efforts, the applicant could not be arrested. The release of the applicant on pre-arrest bail would, therefore, cause grave prejudice to the cause of effective investigation.

7. I have perused the allegations in the FIR. There are specific allegations against the applicant that the applicant was introduced by the co-accused as a MHADA official. The applicant had given inducement that he would fetch the tenement for the victim. The applicant had accepted the amount by way of advance from the first informant and the applicant and his associates had shown the identity cards and documents indicating that they were MHADA officials. The applicant had also delivered allotment letter purportedly issued by MHADA; which turned out to be forged.

8. The affidavit cum undertaking given by the applicant along with co-accused Vishnudev Tripathi, Nilesh Thakkar and Hussain Khan is required to be considered in the aforesaid backdrop. A

major role has been attributed to the applicant in deceiving the first informant and his wife. Therefore, the submission on behalf of the applicant that the applicant is entitled to be released on bail as he is similarly circumstanced like the persons who are already released on bail, does not merit acceptance, unreservedly. First and foremost, three of the co-accused were released on regular bail, post their arrest. Different considerations come into play while exercising the discretion to grant pre-arrest bail.

9. I also find substance in the submission of the learned APP that the applicant had made himself scarce and, therefore, he does not deserve the exercise of discretion. It appears that the learned Additional Session Judge had rejected the prayer of the applicant for pre-arrest bail on 20th June, 2023. The instant application came to be filed in the month of May, 2024.

10. In the aforesaid view of the matter, especially having regard to the nature of accusations against the applicant, he does not deserve the exercise of discretion as the release of the applicant on pre-arrest bail would jeopardize the cause of effective investigation.

Hence, the following order.

ORDER

1] The application stands rejected.

2] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail.

(N. J. JAMADAR, J.)