IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3736 OF 2023

Mr. Sameer Mohammad Patel ..Applicant
Versus
The State of Maharashtra ..Respondent

WITH
INTERIM APPLICATION NO.2609 OF 2024
IN
CRIMINAL BAIL APPLICATION NO.3736 OF 2023

Tarun Ramesh Bellam ..Intervenor

IN THE MATTER BETWEEN

Sameer Mohammad Patel ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Ganesh Gupta a/w Sahil Ghorpade, Madan Khansole & Jagrut Patil i/by G. G. Legal Associates, for the Applicant.
Ms. Ranjana D. Humane, APP for the Respondent/State.
Mr. Karma Vivan a/w Bhomesh R. Bellam, for the Intervenor.

CORAM : SARANG V. KOTWAL, J.

DATE : 1st AUGUST, 2024

P. C.

1. The Applicant is seeking his release on bail in connection with C. R. No.553 of 2022 registered at Mahatma Phule Chowk Police Station, District Thane on 27th September, 2022 under Sections, 420, 465, 467, 468, 471 r/w 34 of IPC.

2. Heard.

3. The Applicant is arrested on 22nd March, 2023 and since then he is in custody. The investigation, as far as the present Applicant is concerned, is over and the charge-sheet is filed against him. The prosecution case is reflected in the FIR lodged by one Tarun Bellam. He has stated that he was working in a Shipping Company as Marine Captain since 2016. He came in contact with the captain of his ship, Vinodkumar Shukla, who in turn introduced the informant to one Tayyab Siddique. The informant was told that the said Tayyab Siddique was working in Merchant Navy and had a side business of sale and purchase of lands. The said accused Tayyab Siddique introduced the informant and Vinodkumar Shukla to the present Applicant. They were told that the Applicant knew certain lands in that area, which were available for sale. The FIR mentions three instances regarding three lands which were shown to the informant and Vinodkumar Shukla, which both of them agreed to purchase. These three instances are from July, 2017, August, 2017 and September, 2017. The first instance was in respect of the land at village Mohghar, Taluka Murbad, District Thane admeasuring 2.5 acre. The second instance was in respect another 2.5 acre land at Tatyachiwadi, District Thane and the third instance was in respect of two pieces of lands in all admeasuring 18 acres at village Kallam. The FIR mentions that the informant had paid Rs.14,40,000/-, Rs.14,90,000/- and 31,45,000/- for these three transactions. On each of the occasions, the documents were executed near Kalyan

Court. They were notarized. The allegations are that instead of some of the real owners, some impostors were made to stand and were made to sign those documents. Subsequently, the transaction was not completed. The informant and Vinodkumar Shukla tried to contact Tayyab Siddique, but he was not available. Instead, the Applicant met them and told them that they were cheated by Tayyab Siddique, but he assured that the entries would be made in the revenue record, for which informant was required to spent some amount. On this representation, the informant paid him Rs.4,50,000/-. The FIR mentions that the Applicant sent photograph of 7/12 extract in respect of the land at Tatyachiwadi. It turned out that the said photograph of 7/12 was forged. Thus, the Applicant had not only cheated the informant and Vinodkumar Shukla but had also forged the revenue documents. On this basis, the FIR was lodged.

4. The informant had lost an amount of Rs.65,25,000/-. The investigation was carried out. The Applicant was arrested on 22nd March, 2023 and the charge-sheet is filed against him. The charge-sheet contains statements of various witnesses. The statement of Vinodkumar Shukla shows that he had lost an amount of Rs.64,80,000/-. There are statements of land owners which show that some of the co-owners of the lands were not present and in spite of that, the documents were executed in their name by using someone else's thumb impressions and photographs.

5. There is statement of one lawyer Sharif, who has stated that that the Applicant had made arrangements for execution of those documents.

6. Learned counsel for the Applicant submitted that the Applicant himself had not accepted any amount from either the informant or Vinodkumar Shukla. He is not the beneficiary. Whatever amount he had received, he had paid the necessary amounts to the land owners. He had only kept small amount as his commission. As far as the allegations about creating forged 7/12 extract is concerned, no such document is recovered. There is no Panchanama showing that any such photograph was sent to the first informant. He submitted that the Applicant is in custody for a sufficiently long period. The trial is not likely to start and conclude within a reasonable time. The investigation against him is complete. His further custody pending trial will not serve any purpose. All the offences alleged are Magistrate triable offences.

7. Learned counsel for the Applicant submitted that the charge-sheet contains a document purported to be the forged 7/12 extract. However, it is not clear from the charge-sheet as to how this document came to be seized. There is no Panchanama of seizure of these documents.

8. Learned counsel for the informant/intervenor submitted that from the above discussions and the charge-sheet, it is clear that

the Applicant has played a major role and without his active involvement, the offence could not have been completed. There was last transaction in cash and therefore, the Applicant was a beneficiary to a much larger amount. He submitted that the other accused are absconding and therefore, release of the Applicant on bail will adversely affect the investigation.

9. Learned APP has admitted that there was no recovery of any amount from the Applicant.

10. I have considered these submissions.

11. From the above discussions and from the statements of the witnesses referred herein-above, it is clear that the Applicant has played a significant part in commission of the offence. However, ultimately, it will have to be decided during trial. A copy of the forged document i.e. 7/12 extract has also formed part of the charge-sheet. The witnesses have stated that the Applicant had arranged for execution of the documents and had arranged to keep the impostors present. Having said that, the fact remains that the Applicant was arrested on 22nd March, 2023. The investigation is over and the charge-sheet is filed. The other accused are not arrested. Therefore, the trial is likely to take a very long time to commence. In this context, the observations of the Hon'ble Supreme Court in the case of ***Krishna Damani Vs. State of West Bengal decided on 22nd May, 2024 in Criminal Appeal No.2743 of 2024*** are

important. The relevant observations are as follows :-

> *"A perusal of the counter affidavit filed by the respondent-State shows that investigation has been complete and a charge-sheet has been filed on 1st April, 2024 for the offences punishable under Sections 120B, 406, 403, 408, 409, 420 and 477A of the Indian Penal Code, 1860 (for short, "the IPC"). It is also mentioned that a supplementary charge-sheet will be filed as soon as a report of the experts of QDEB is received. It is stated that the supplementary charge-sheet will be on applicability of Section 467 of the IPC.*
>
> *It is not in dispute that all the aforesaid offences are triable by the Court of the Magistrate. After the charge-sheet is filed, considering the nature of the offences, there is no reason to deny bail to the appellant. If there is any apprehension that the appellant may try to influence the prosecution witnesses, appropriate conditions can be always imposed while releasing the appellant on bail."*

12. In the present case also, all the offences are triable by the Court of Magistrate. The charge-sheet is already filed. The Applicant is in custody since March, 2023. More than one year and three months have passed. The Investigating Agency had sufficient opportunity to interrogate the Applicant. Therefore, further custody of the Applicant pending the trial will not serve any purpose. Therefore, on this ground, I am inclined to grant bail to the Applicant with certain conditions. Hence, the following order :-

ORDER

I) The Applicant is directed to be released on bail in connection with C. R. No.553 of 2022 registered at

Mahatma Phule Chowk Police Station, District Thane on 27th September, 2022 under Sections, 420, 465, 467, 468, 471 r/w 34 of IPC on his executing PR bond in sum of Rs.50,000/- with one or two sureties in the like amount.

II) The Applicant shall deposit his Passport, if any, with the Investigating Agency before being released on bail.

III) The Applicant shall attend the concerned Police Station every alternate Saturday between 04:00 p.m. to 06:00 p.m. for a period of one year from today.

IV) The Applicant shall co-operate with the investigation, if any.

V) The Application is disposed of.

VI) In view of disposal of the Application, the Intervention Application also stands disposed of. In any case, I have heard the learned counsel for the Intervenor.

(SARANG V. KOTWAL, J.)