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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.133 OF 2024

Santosh Vinayak Waje ... Applicant
V/s.
The State of Maharashtra ... Respondent

Dr. Uday Prakash Warunjikar a/w Ms. Sonali R. Chavan
a/w Mr. Utkarsh Poudkule.

Mr. T. G. Khan, APP for the State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 12th AUGUST, 2025

P.C.:

1. Heard Dr. Uday Prakash Warunjikar, learned Advocate for the Applicant and Mr. T. G. Khan, learned APP for the State.
2. By the present application, applicant is seeking following relief:-

“a) This Hon’ble may be pleased to pass order and/or direction to delete the condition of depositing Rs.36,00,000/- (Rupees Thirty-Six Lakhs Only) per month for three equal installments starting with the month of September, 2023 as imposed on the Applicant by the Hon’ble Sessions Court by its Order dated 31/08/2023 in bail application No.3894/2023 in C.R. No.320 of 2023;”

3. Applicant is an Accused in C. R. No.320 of 2023 registered with Chatushrungi Police Station, Pune for the offences punishable under Sections 406, 409, 420 read with 34 of IPC read with Section 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

4. Dr. Warunjikar, learned Advocate for the Applicant submits that C.R. No.320 of 2023 is registered as Special Case No.784 of 2023 and is pending before the Court of Additional Sessions Judge, Pune.

5. Applicant was arrested on 11.05.2023. Bail Application No.3894 of 2023 filed by the Applicant was granted by the Additional Sessions Judge Pune, by order dated 21.07.2023 on the following conditions:-

“1] Accused applicant shall be released on temporary bail on execution of P.B. and S. B. in the sum of Rs. 25,000/- with one or more sureties of the like amount and he is further directed to deposit Rs.78.50 lakhs (Rs. Seventy Eight Lakhs Fifty Thousand only) prior to releasing him on bail and after releasing on bail he shall deposit Rs.26.00 lakhs (Rs. Twenty Six lakhs only) per month till the end of November 2023 in three equal installments, however, last installment should be of Rs.25.60 lakhs.

2] Applicant shall attend the police station on every Monday during 11.00 a.m. to 1.00 p.m. till filing of charge-sheet.

3] Applicant shall file on record the authentic proof of residence – both permanent and present.

4] Applicant shall not tamper with prosecution witnesses or pressurize witnesses in any manner whatsoever.

5] Applicant shall not leave the jurisdiction of this court without prior permission of investigating officer in writing.

6] Applicant shall regularly remain present during the trial and co-operate to complete the trial for the above offences.

7] The applicant shall maintain law and order.

8] The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the Investigating officer, and shall inform the change in

residence if any.

9] If breach of any of the above conditions is committed, the order of bail shall stand cancelled.”

6. Applicant filed an application at Exhibit-10 in Criminal Bail Application No.3894 of 2023 seeking relaxation of the condition imposed on the Applicant to deposit an amount of Rs.78.50 lakhs.

7. By order dated 31.08.2023, the Additional Sessions Judge passed the following order on Exhibit-10:-

“ FURTHER MODIFIED ORDER

Accused applicant shall be released on temporary bail on execution of PB and SB in the sum of Rs. 25000/- with one or more sureties of the like amount and he is further directed to deposit Rs. 9,00,000/- prior to releasing him on bail and after releasing on bail he shall deposit Rs. 36.00 lacs per month in three equal installments. The first installment shall deposit in September 2023 thereafter 2nd installment shall deposit in October 2023 and 3rd installment in November 2023.

Rest of the conditions shall remain as it is.”

8. Applicant filed yet another application at Exhibit-19 in Criminal Bail Application No.3894 of 2023, seeking modification of the condition imposed by the Court while passing the modified order dated 31.08.2023. By order dated 07.03.2023, the Additional Sessions Judge Pune, rejected the said application at Exhibit-19. Dissatisfied with the order dated 07.03.2023, passed on Exhibit-19 the Applicant is before this Court.

9. This Court passed the following order on 17.05.2024:-

“ 1. The Applicant challenges order dated 31st August, 2023 passed by the learned Additional Sessions Judge, Pune while modifying the Order dated 21st July, 2023 and directing that

the Applicant be released on temporary bail. The impugned order, the learned Additional Sessions Judge directed the Applicant to deposit Rs.9,00,000/- and to pay Rs.36,00,000/- in three equal installments.

2. The contention is that the Applicant has immediately paid Rs.9,00,000/- and the condition for paying Rs.36,00,000/- is onerous and it is difficult from him to manage to pay Rs.36,00,000/-. It is also contended that due to non-payment of Rs.36,00,000/- the learned Sessions Judge has issued non-bailable warrant.

3. Issue notice to Respondent, returnable on 14th June, 2024.

4. Learned APP waives notice for Respondent-State.

5. Meanwhile, the effect and operation of non-bailable warrant issued by the learned Sessions Judge shall remain suspended.”

10. Dr. Warunjikar, learned Advocate for the Applicant submits that imposing a condition for deposit of money as a condition for bail is not justified and the same is illegal. He submits that condition of financial deposit imposed while releasing the Applicant on bail is an onerous condition.

11. Mr. T. G. Khan, learned APP for the State submits that the Applicant was released on bail, on the basis of the representation and the statements made by the Applicant. He submits that once the Applicant himself had made an offer to deposit the amount, the Applicant cannot now resile and state that the said condition is onerous. He submits that the Applicant is estopped from making any statements contrary to the statements on the basis of which the Applicant secured his liberty. He submits that the Applicant has deposited some amount and as such the Applicant who himself had offered to deposit the amount should not have difficulties in complying with the conditions imposed while securing his release

on bail.

12. In rejoinder to the said contention of Mr. T. G. Khan, Dr. Warunjikar submits that the Applicant being in jail, the statements made before the Court, by the representative of the Applicant would be without instructions. Dr. Warunjikar, on specific instructions from the Applicant who is present in the Court, submits that the amount which the Applicant has deposited in the Court be continued as a deposit in the Court, subject to the final outcome of the Special Case No.784 of 2023. Dr. Warunjikar again on specific instructions from the Applicant states that the issue pertaining to the said deposit and the entitlement of the said amount already deposited by the Applicant, be considered by the Trial Court while adjudicating the Special Case No.784 of 2023.

13. The Hon'ble Supreme Court in the case of Gajanan Dattatray Gore Vs. State of Maharashtra and Anr.¹ has observed in paragraph No.14 to 24 as under:

“14. Heard Mr. A.M. Bojor Barua, the learned counsel appearing for the appellant and Mr. Prashant S. Kenjale, the learned counsel appearing for the Respondent No.2 complainant.

15. We have noticed over a period of time that orders of regular bail and anticipatory bail are being passed by different High Courts subject to deposit of some amount.

16. We have come across cases like the one in hand where accused persons have gone to the extent of filing affidavits in the form of undertaking that they would deposit a particular amount within a particular period then conveniently resile from such undertakings saying it is an onerous condition.

17. In some cases, perhaps the accused may abide by

¹Criminal Appeal No.3219 of 2025

such undertaking, but our experience so far has been that in many cases the accused later would not abide and flout the undertaking. In many cases it would be argued on behalf of the accused that he had never made such a statement and the court on its own had recorded in the order that the accused is ready and willing to deposit a particular amount. At times the entire blame is thrown on the lawyer in making such statement for the purpose of obtaining order of bail or anticipatory bail as the case may be. In such circumstances, the concerned court would be left without option but to cancel the bail either at the instance of SON SCATA or the original complainant.

18. The case in hand is one in which the appellant on his own free will and volition filed an affidavit in the form of an undertaking before the High Court that he would deposit an amount of Rs.25,00,000/- but ultimately resiled to do so and the High Court had to cancel the bail. It was too much for the lawyer of the appellant to argue before the High Court that asking his client to deposit Rs. 25,00,000/- was unreasonable. It reflects on the professional ethics.

19. By this order, we make it clear and that too in the form of directions that henceforth no Trial Court or any of the High Courts shall pass any order of grant of regular bail or anticipatory bail undertaking that the accused might be ready to furnish purpose of obtaining appropriate reliefs.

20. The High Courts as well as the Trial Courts shall decide the plea for regular bail or anticipatory bail strictly on the merits of the case. The High Courts and the Trial Courts shall not exercise their discretion in this regard on any undertaking or any statement that the accused may be ready and willing to make.

21. This practice has to be stopped. Litigants are taking the courts for a ride and thereby undermining the dignity and honor of the court.

22. We hope and trust that the High Courts as well as the Trial Courts across the country do not commit the same mistake again.

23. In the case in hand, so far as the plea for regular bail is concerned, we are not inclined to look into. The appellant has made a mockery of justice. He could be said to have abused the process of law. If at all the High

Court wanted to release the appellant on bail, it should have first asked him to deposit the amount within a particular period of time and upon such deposit the appellant could have been released.

24. Be that as it may, now we have made ourselves very clear that there shall not be a single order that the High Courts and the Trial Courts shall pass for grant of regular bail or anticipatory bail on the basis of any accused or his/her family members giving an undertaking to deposit a particular amount. The plea shall be decided strictly on merits in accordance with law. If the case is made out on merits the court may exercise its discretion and if no case is made out on merits the court shall reject the plea for regular bail or anticipatory bail as the case may be. However, in any circumstances the High Courts or trial courts shall not pass a conditional order of regular bail or anticipatory bail.”

14. In view of the above, the order/direction to the Applicant to deposit the amount as a condition for bail in Criminal Bail Application No.3894 of 2023, would not be tenable. The direction to deposit amount as mentioned in the order passed in Criminal Bail Application No.3894 of 2023 stands set aside. However, it is clarified that the amount already deposited by the Applicant in the Court pursuant to the said order shall continue to remain deposited in the Court and the same shall be subject to the final outcome of Special Case No.784 of 2023. This observations are made on the basis of the statements specifically made by Dr. Warunjikar, on instructions from the Applicant who is present in Court.

15. Criminal Application No.133 of 2024 is allowed in the above said terms.

(ASHWIN D. BHOBE. J.)