Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2962 OF 2024
WITH
INTERIM APPLICATION NO.724 OF 2025

Parumeeta Chakravarty	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
INTERIM APPLICATION NO.5154 OF 2024
IN
CRIMINAL BAIL APPLICATION NO. 2962 OF 2024

Sanjay Lilaram Rohira	.. Intervenor / First Informant
IN THE MATTER BETWEEN:	
Parumeeta Chakravarty	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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- Mr. Mubin Solkar a/w. Mr. Tahir Hussain, Mr. Anas Shaikh, Mr. Hemal Shah i./by Mr. Shubham Kahite, Advocates for Applicant.
- Mr. A.R. Khan i./by Ms. Mariya Khatkhatay, Advocates for Intervenor.
- Ms. Megha Bajoria, APP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 12, 2025.

P.C.:

1. Heard Mr. Solkar, learned Advocate for Applicant ; Mr Khan, learned Advocate for Intervenor and Ms. Bajoria, learned APP for Respondent – State.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with C.R. No.29 of 2019 registered with Powai Police Station for offences under

Sections 406, 420, 465, 467, 468, 470, 471 readwith 34 of the Indian Penal Code,1860.

3. There are total two Accused in the crime. Accused No.1 – Suraj Jaiswal is passed away prior to filing of charge-sheet in the present matter and present Applicant is arraigned as Accused No.2. She is in incarceration in the present crime since 07.03.2022 i.e. for 3 years and 6 days.

4. Briefly stated prosecution case is that in November 2013, First Informant who is a businessman was introduced to one Suraj Jaiswal (Accused No.1) through an acquaintance who requested the First Informant for financial help of Rs.81,00,000/- which he promised to return within one week and he also kept lien of his flat documents which were verified by First Informant. Accordingly, First Informant transferred the amount of Rs.81,00,000/- to said Suraj Jaiswal against which he was handed over 3 post dated cheques for amount of Rs.62,96,000/- and promised to return the balance amount of Rs.18,04,000/- in cash. It is alleged that the said cheques got dishonoured and thereafter said Suraj Jaiswal promised the First Informant to pay an additional amount of Rs.11,48,000/- towards the penalty suffered by him.

4.1. It is alleged that thereafter on 25.01.2014, said Suraj Jaiswal visited the residence of the First Informant alongwith his foster sister (present Applicant) who was depicted as a financer owning a Travel Agency. It is stated by First Informant that the said Suraj Jaiswal assured him that present Applicant would repay the money which he owed to him and furthermore in order to gain his trust present Applicant paid an amount of Rs.17,22,000/- by cheque and asked the First Informant to visit her office for the balance payment.

4.2. It is prosecution case that on 13.02.2014 when the First Informant visited office of Applicant, she informed him that she was in need of funds and promised him to pay 5% interest per month on the balance amount and accordingly paid Rs.3,00,000/- towards interest for two months. It is alleged that in March 2014, Applicant called the First Informant and informed him that she is undergoing scrutiny by Income Tax Department and being questioned about Rs.17,22,000/- which she transferred to him and requested him to return the amount, which was returned by First Informant. Thereafter it is alleged that in the same month Applicant called First Informant to his office and induced him to take loan of Rs.5,00,00,000/- @ 1% interest per month against which the First Informant transferred total annual interest of Rs.60,00,000/- via RTGS.

4.3. As per the First Informant as he did not receive the loan amount of Rs.5,00,00,000/- in his bank account, he visited the office of Applicant who then induced him to take additional loan of

Rs.10,00,00,000/- from her @ 1% interest per month and in order to gain trust of First Informant showed him a forged Loan Agreement dated 02.11.2013 between herself and said Suraj Jaiswal for an amount of Rs.72,00,00,000/- on which forged franking was done from Kapol Bank dated 29.11.2013 by paying an amount of Rs.2,16,00,000/-. Thereafter it is stated by First Informant that Applicant asked him to transfer the total interest on the said additional amount upfront and he therefore transferred amount of Rs.60,00,000/- to Applicant bring interest for the additional loan amount. It is also alleged that Applicant handed over to the First Informant five forged pay orders of Rs.50,00,000/- each drawn on the West Bengal State Co-operative Bank which Bank does not even exist.

4.4. As per prosecution case again on 05.07.2014, Applicant induced First Informant to transfer her an amount of Rs.60,00,000/-. Therefore as per prosecution the First Informant was defrauded to the tune of Rs.2,94,00,000/- by said Suraj Jaiswal and the present Applicant. It is stated by the First Informant that on 21.04.2017 he executed a Memorandum of Understanding with Applicant by which Applicant agreed to repay an amount of Rs.3,30,00,000/- including interest. However as she failed to repay the amount First Informant lodged FIR on 19.01.2019.

5. Mr. Solkar, learned Advocate for Applicant would submit that Applicant has been falsely indicted in the present crime. He would submit that there is an unexplained and inordinate delay of five years in lodging of the FIR since the first transaction took place in 2014. He would submit that the transactions in question are purely of civil nature as it arises out of a Memorandum of Understanding of 2016 and the remedy of Complainant lies before the Civil Court and not Criminal Court. He would submit that it is settled law that criminal law cannot be pressed into service for settling a civil dispute. He would submit that though the FIR was lodged in the year 2019 Applicant came to be arrested by the investigating authorities after three years in 2022 which *prima facie* raises a doubt on the investigating authorities. He would therefore submit that further custody of Applicant is unwarranted in the present crime.

5.1. He would submit that Applicant is a woman having several medical ailments of which cognizance has been taken by this Court (Coram: Manish Pitale, J.) in order dated 06.12.2024 passed in Bail Application No.4344 of 2024 of the present. The said aspect has also been dealt with by this Court in the previous order dated 23.01.2025 whereby medical report dated 13.01.2025 submitted by the Department of Traumatology and Orthopedic Surgery of Sir J.J. Group of Hospitals was taken on record. It has been recorded that all reports of Applicant are absolutely normal and she is being given appropriate treatment. Hence I need not consider the present Application on medical ground.

5.2. Next he would submit that investigation in the matter is completed and charge-sheet is filed. He would submit that at present evidence is ongoing before the Trial Court and the prosecution is desirous of examining probable 11 witnesses and evidence of PW-1 First Informant is ongoing before the Trial Court and the trial would not be completed in the near foreseeable future. He would submit that in any event all offences levelled against the Applicant are triable by the Magistrate and hence maximum imprisonment which can be imposed is upto 7 years out of which Applicant has already undergone imprisonment of more than three years. In view of the above submissions he would urge the Court to enlarge the Applicant on bail.

6. Ms. Bajoria, learned APP for Respondent – State has vehemently opposed the Application and at the outset would submit that the Applicant is a habitual offender and has 11 cases registered against her which are of similar nature. She would submit that in some of the crimes the Applicant has entered into out of Court settlement also. She would submit that all these crimes are economic crimes involving huge amounts. She would submit that Applicant is a permanent resident of Gujarat and has no permanent residence in Mumbai and as if enlarged on bail it would be difficult to secure her presence as she is is a flight risk. She would submit that witness action in the present matter is undergoing before the Trial Court. Hence considering the above facts *vis-a-vis* gravity of the crime coupled with her criminal antecedents this Court be cautious while considering the Bail Application of the Applicant.

7. Mr. Khan, learned Advocate appearing for the Intervenor - First Informant has persuaded the Court to allow him to make his submissions on behalf of the Intervenor - First Informant. He has filed Interim Application No.5154 of 2024. He would adopt and support the submissions made by Ms. Bajoria, learned APP and would further submit that the Applicant alongwith said Suraj Jaiswal has in a pre-mediated and calculated manner gained trust of First Informant and lured him to part with huge monies amounting to Rs.2,94,30,000/-. He would submit that after her arrest, Applicant offered to settle the matter and in furtherance of the same an Affidavit (Consent Terms) Cum Undertaking was entered and executed by the Applicant and First Informant on 23.03.2022 before the Trial Court. He would submit that by way of the Consent Terms Applicant agreed to pay an amount of Rs.2,50,00,000/- till 15.09.2023 to the First Informant however she did not comply with the same. He would submit that Applicant has many such crimes registered against her and hence her criminal antecedents may be considered and her Bail Application be rejected.

8. With the able assistance of the learned Advocates I have perused the record of the case. Mr. Solkar, learned Advocate for Applicant has placed on record a list of FIRs registered against the Applicant and its status. It is seen that there are 11 FIRs registered against the Applicant including the present FIR. All these FIRs are registered in various States being Maharashtra, Gujarat, Karnataka and West Bengal and they arise out of business transactions. Further, in most of the FIRs the Applicant has been enlarged on bail or anticipatory bail or they have been quashed.

9. In the present case it is seen that the fulcrum of the matter arises from a commercial business transaction being loan agreements between First Informant, Applicant and said Suraj Jaiswal. First Informant has parted with huge amounts till date as can be *prima facie* seen from the record. However it needs to be noted here that criminal action cannot be set into motion for settling a civil dispute. The said position of law is affirmed by the decision of the Supreme Court in the case of ***Ramesh Kumar Vs. The State of NCT of Delhi***[1] wherein the Supreme Court has held that recovery of money is essentially within the realm of civil proceedings.

10. In so far as the aspect of forgery is concerned it is seen that the forged pay order and other forged documents have been recovered by the prosecution and there is no recovery or discovery pending at the

1 Criminal Appeal No.1741 of 2023 decided on 04.07.2023

instance of the Applicant. Even the handwriting samples of the Applicant have been taken by the prosecution. Hence the investigation in that aspect is done and it can be proved at the trial.

11. Applicant before me is a woman incarcerated for more than 3 years. The trial is underway before the Trial Court and evidence of PW-1 First Informant is going on since 21.11.2022 and till date it is not completed. Perusal of the roznama of the present case before the Trial Court reveals that the trial has not effectively progressed since past many dates and even the Applicant is not being produced before the Court from jail. In such circumstances the possibility of completion of trial in near foreseeable future is bleak. *Prima facie*, her medical condition is also fragile which can be gathered from the record of the case and orders passed by this Court.

12. Support is drawn from the decision of the Supreme Court in the case of ***Sanjay Chandra Vs. Central Bureau of Investigation***[2] wherein the Court has held that in economic offences while considering an application for bail, the nature of charge may be relevant but at the same the punishment to which the party may be liable, if convicted is also a significant aspect and therefore both, the seriousness of the charge and the severity of the punishment should be taken into consideration for arriving at decision of grant of bail. It further observed that deprivation of liberty must be considered a

2 (2012) 1 SCC 40

punishment unless it is absolutely necessary in the interest of justice and that object of bail is merely to secure appearance of accused at the trial.

13. Next, the decision of the Supreme Court in the case of ***P. Chidambaram Vs. Directorate of Enforcement***[3] is also relevant in the facts of the present case. The Supreme Court observed that economic offences would fall under the category of 'grave offences' and in such circumstances while considering application for bail, the Court will have to deal with the same being sensitive to the nature of allegations made against the accused, however the term of sentence that is prescribed for the offence which is in addition to the triple test or the tripod test that would be normally applied. In that regard the Supreme Court has further held that even if the allegation is one of grave economic offence, it is not a rule that bail should be denied in every case and ultimately the consideration will have to be on case-to-case basis on the facts involved therein and securing the presence of the accused to stand trial.

14. From the above decisions it is clear and well settled law that a Court while deciding a Bail Application has to keep in mind the principal rule of bail which is to ascertain whether the Accused is likely to appear before the Court for trial. There are other broad parameters also like gravity of offence, likelihood of Accused repeating the offence

3 (2020) 13 SCC 791

while on bail, whether he would influence the witnesses and tamper with the evidence, his antecedents are required to be considered in such cases.

15. In so far as the apprehension expressed by Ms. Bajoria that Applicant is a flight risk is concerned that can be dealt with by imposing stringent conditions. Considering the long incarceration of Applicant as well as my *prima facie* findings delineated hereinabove, Applicant has made out a case for grant of bail.

16. Hence, Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;

(ii) Before her actual release from jail, Applicant shall furnish her address where she proposes to reside after her release from jail to the concerned Police Station and also to the trial Court;

(iii) Applicant shall deposit her passport with the Trial Court within a period of one week from her release;

(iv) After her release from jail, Applicant shall report to the Investigating Officer as and when called for;

(v) Applicant shall attend the trial Court on first Monday of every month between 11.00 a.m. and 1.00 p.m. to mark her presence. If the first Monday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if she does so, it will entitle the prosecution to apply for cancellation of this order;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(viii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking her attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

17. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

18. Bail Application No.2962 of 2024 is allowed and disposed.

19. In view of the disposal of the Bail Application, both pending Interim Applications are accordingly disposed.

[MILIND N. JADHAV, J.]

Ajay

AJAY TRAMBAK UGALMUGALE

Digitally signed by AJAY TRAMBAK UGALMUGALE
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