HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4070 OF 2024

Purnachandra Surendra Senapati .. Applicant
Versus
State of Maharashtra .. Respondent

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- Mr. Aditya R. Mokashi, Advocate for Applicant.
- Mr. Hitendra J. Dedhia, APP for Respondent.

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CORAM : MILIND N. JADHAV, J.
DATE : APRIL 09, 2025

P.C.:

1. Heard Mr. Mokashi, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.270 of 2023 dated 09.12.2023 registered with Thane Nagar Police Station for offences punishable under Sections 420, 406 and 34 of the Indian Penal Code, 1860 (for short '**IPC**').

3. After hearing learned Advocate for Applicant and learned APP on 07.03.2025, the following order was passed:-

> "***1.*** *Heard Mr. Mokashi, learned Advocate for Applicant and Mr. Dedhia, learned APP for State.*
>
> ***2.*** *Insofar as the indictment and arrest of Applicant in present crime is concerned, Mr. Mokashi would submit that story of the prosecution cannot be believed from the inception stage itself. He would submit that allegation is that Applicant has received amount of Rs. 17 Lakhs from the first informant towards arranging admission of first informant's friend's son as also first informant's friend's niece in*

the Indian Army. He would submit that prosecution case itself states that the aforesaid amount was paid in three tranches. Mr. Mokashi has drawn my attention to the certain payments made and would submit that it would be evident that case of the prosecution is prima facie suspect.

3. *In respect of the first tranche, he would submit that it is alleged that on 15.09.2023, cheque of Rs. One Lakh is stated to have been received by Applicant from the informant. However the bank account statement of first informant as also the bank account of Applicant do not reflect the debit or credit of this amount Rs. One Lakh as also any cheque entry therein is seen.*

4. *Insofar as the second tranche is concerned, prosecution case is that on 24.02.2023, first informant received an amount of ₹6 Lakhs from his friend Kamalkant Sharma, which as per the statement of first informant, was withdrawn by him after three days alongwith another additional Rs. 3 Lakhs and a total of Rs.9 Lakhs was handed over in cash to the present Applicant. He would submit that there is no proof of this particular allegation as stated in the prosecution case save and except the statement that is made,*

5. *Prima facie prosecution will have to show some proof of the aforesaid transactions and complicity and implication of the Applicant in the crime. Mr. Dedhia, learned APP would submit that Applicant is a habitual offender and he was engaged in several such cases in the past. Be that as it my, learned APP shall file affidavit in reply explaining the above as also antecedents of the Applicant which shall be filed within a period of three weeks from today.*

6. *Stand over to **28th March, 2025 at 2:30 p.m.**"*

4. Today when the matter is argued before me, learned APP would persuade me to consider Affidavit-in-Reply dated 18.03.2025 filed the prosecution in support of prosecution case.

5. He would read the said Affidavit and submit that in so far facts in the present case are concerned, Applicant had received an amount of Rs.17,00,000/- as stated in paragraph No.5 of the Affidavit in two tranches namely Rs.1,00,000/- by a cheque bearing No.122275 which has been referred to in paragraph No.3 of the above order and second tranche of Rs.16,00,000/- received in cash. The Affidavit states that said amount in cash was received in the presence of witness namely Manager of Vishwas Hotel, Thane. The statement of Manager of Vishwas Hotel, Thane is appended at page No.70. His name is Dinesh Murlidhar Bhatt. The said statement when read does not support the prosecution case at all.

6. That apart, it is seen that the directions contained in paragraph Nos.3 and 4 of the above order are not addressed in the Affidavit-in-reply *qua* the present transaction in question.

7. Though Mr. Dedhia, learned APP would persuade me to consider the conduct of Applicant of that he being a habitual offender and having been indicted in one previous offence namely C.R. No.48 of 2024 in an identical *modus operandi*.

8. In that regard Mr. Mokashi would submit that out of the alleged amount of Rs.20,00,000/- received therein an amount of Rs.8,00,000/- has been recovered and Applicant has been enlarged on bail on the ground that the said amount was infact received by Accused No.2 in question and not by Applicant.

9. In so far as the present facts are concerned there has to be *prima facie* veracity in the case of First Informant who has invoked prosecution against the Applicant. According to First Informant and as delineated in the above order, he has received amounts of Rs.6,00,000/- and Rs.9,00,000/- in two different tranches from his friend Kamalkant Sharma which he has deposited in his account. According to him he withdrew the said amounts and paid in cash to the Applicant. This Court therefore required the First Informant or prosecution to show *prima facie* proof of having made the said payment to Applicant.

10. There is another aspect which needs consideration in so far as the second payment of Rs.16,00,000/- is concerned. The bank account statements of First Informant are appended to the present Application and when the same are perused at page No.146 read with page Nos.161 and 164, it is *prima facie* seen that the said amount of Rs.16,00,000/- which was received by First Informant was never deposited by him in his bank account. Once this is *prima facie* seen from the said record produced before me, Applicant deserves to be enlarged on bail.

11. In view of the above *prima facie* observations, 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.25,000/- with one or two sureties in the like amount;

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

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

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

(v) 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 he does so, it will entitle the prosecution to apply for cancellation of this order;

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

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

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

12. 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.

13. Bail Application No.4070 of 2024 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA HANUMANT SAWANT

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