

ORDER

1. This is an application for temporary bail for a period of six months only in connection with Crime No.559 of 2021 registered at Mahim police station for the offence punishable under Sections 420, 409, 467, 468, 471, 120-B r/w. 34 of the Indian Penal Code. The applicant's first bail application was rejected by this Court on merits on dated 28/06/2022 by an order passed by this Court. Thereafter, the applicant had approached the Hon'ble Bombay High Court for grant of regular bail, but had withdrawn the same on 19/04/2023. This application for temporary bail is only on medical grounds of the applicant.

2. The facts, in brief, are that, the complainant Smt. Sonia Hemant Pawar is resident of Ghatkopar East, Mumbai, and is a private teacher. She wanted to buy a house for her in Mumbai. Hence, one Bakul Mathuradas Thakkar, who was familiar with her, informed her in the month of March, 2019 that Suresh Dattaram Pawar i.e. the present applicant is a professional property agent. He is an Ex-Government employee and is having contacts in M.M.R.D.A., Mumbai. His wife Sheela Pawar is doing a Government job in Bandra and both of them are working privately as real estate agents. He further informed that a flat is for sale in Galleria, Hiranandani, Powai and Maharshi Karve Nagar, Kanjurmarg and he would be able to arrange its sale to her at cheap rates.

3. As the complainant wanted to purchase a flat, therefore, Bakul Thakkar introduced her to accused Suresh Pawar at his Mahim office. He also introduced her to another accused Sheela Pawar.

Accused Suresh Pawar told her that one BHK and two BHK flats are for sale in Powai Hiranandani and on the next day, they took her to see that flat. From there, they went to see another flat at construction site in Kanjurmarg (E), Mumbai. Thereafter, they went to Suresh Pawar's Mahim office and she informed the accused that she wanted to purchase the flat which he had shown her at Hill Grenz, Hiranandani, Powai. On 01/06/2019, a meeting was held in the office of accused Suresh Pawar. The complainant was present in the meeting with Bakul Thakkar and Alka Nikalje. Accused Suresh Pawar told her that the said flat was having carpet area of 730 square feet and it is for sale for Rs.50 Lakhs. Suresh Pawar told her that 50% amount was to be paid at the time of booking and 50% amount is to be paid at the time of its possession. Hence, on 12/09/2019, the complainant gave accused Suresh Pawar Rs.1 Lakh in cash for booking and thereafter, on 18/10/2019, she gave him Rs.4 Lakhs in cash. His wife Sheela Pawar was present at the time of accepting the said amount. Sheela Pawar had issued receipt for the said amount in favour of the complainant. Thereafter, in the month of December, 2019, Suresh Pawar called complainant to his office and as per the process of M.M.R.D.A., he took her bio-metric and eye retina impressions. Thereafter, he gave her the M.M.R.D.A. documents of the said flat. Therefore, she started to trust him. Later on, she came to know that the said documents were forged and Suresh Pawar and his wife Sheela Pawar had also cheated Rakesh Srivastav and some other persons. In her report, the complainant gave a list of 16 persons/documents, who were cheated by the present applicant and his wife for an amount of Rs.2,40,66,000/- on the pretext of securing them flats. Accused had issued forged possession receipts to

some victims and had used forged letterheads and seals of the M.M.R.D.A.

4. The say of the Investigating Officer was called. He stated that, the charge-sheet has been filed in the matter. The account details of the bank account of the applicant were obtained from IndusInd Bank. The said current account is operated by the applicant in the name of S. S. Enterprises Estate Agency. It was revealed in the investigation that the complainant and victims had transferred the amount on the said bank account operated by the applicant. The applicant is operating another saving account in IndusInd Bank. The applicant is also operating another account in IndusInd bank in the name of Vyankatesh Enterprises Estate Agency. It was revealed that the applicant and his accomplice conspired and issued forged allotment letters, forged payment receipts pertaining to M.M.R.D.A. The photocopies of the cheques issued by the accused in favour of the victims for security, have also been obtained. It was revealed that the receipts, letters, seals, etc. pertaining to M.M.R.D.A. and Deputy Collector of Bhandup Division were forged by the accused and his accomplice. It was revealed that accused had cheated many persons for Crores of Rupees. The applicant had transferred Rs.2 Lakhs on 25/07/2018 to the account of his wife Sheela Pawar and another Rs.4 Lakhs and Rs.2,50,000/- were also transferred to her account from his account. From the amount dishonestly obtained from the victims, the applicant had purchased 1 Hector 3 R agricultural land in the village Golap, Ratnagiri. Gold ornaments of 684.2 grams were mortgaged by the accused with Muthoot Finance, Kalyan (W) Branch. The documents pertaining to it have been seized. The applicant had also purchased

four wheeler from the amount dishonestly received from the victims. During investigation, it was revealed that the applicant has cheated many persons for an amount of Rs.3,47,00,000/-. The applicant has used the amount of victims to go on foreign trips. His earlier bail application was rejected by this Court and also by the Hon'ble High Court. Hence, the application may be rejected.

5. Heard both the parties. Learned counsel for the applicant submitted that, the present application is only for temporary bail for a period of six months on the medical grounds of the applicant. The applicant is behind the bars since 31/12/2012. The charge-sheet was filed in the month of March, 2022 and long back the learned trial Court has framed the charges. The trial is in progress. The applicant is severe diabetic and is suffering from other several age related diseases. He is 62 years old. In the month of February, 2023, he had sustained injury to his toe and was admitted to the J.J. Hospital and was later on discharged. Thereafter, he developed Gangrene disease on his toe and it had to be amputated. On 23/03/2023, the Hon'ble High Court had given directions to the jail authorities to provide proper medical treatment to the applicant. Thereafter, on 19/04/2023, the bail application of the applicant was withdrawn from the Hon'ble High Court. On the very same day, his health deteriorated and he had to be again admitted to the J.J. Hospital, but due to improper medical treatment, his wound developed septic and his leg below the knee had to be amputated. The medical staff shifted the applicant to the General Ward despite of his serious condition. Now his lungs have developed severe infection. He is also a heart patient. He is not getting proper treatment in the Government Hospital, therefore, for the sake of his

treatment in a private Hospital, he may kindly be released on temporary bail.

6. The intervener appeared through her counsel and and filed her intervention application and written submissions at Exhs.5 and 6 respectively. The learned counsel for the intervener vehemently opposed the application.

7. Learned A.P.P. vehemently opposed the application and argued that the application for temporary bail is silent on the further proposed line of treatment which the applicant wants to have from private Hospital. He is being provided proper medical treatment and care in the J.J. Hospital. The trial is in progress. Hence, the application may be rejected.

8. I have carefully considered the submissions advanced on behalf of all the parties and have perused the medical documents placed on record along with the application and intervention application. I have also perused the copy of the medical report Exh.4 pertaining to the present applicant. The said report is filed through the prosecution. The Medical Officer of Sir J.J. Hospital, Mumbai, has given all the details of the medical treatment given to the applicant and the details of the surgery performed on him recently. It appears from the medical papers that the applicant is severe diabetic and his right leg below the knee had to be amputated due to septic. He is also suffering from lung infection. Therefore, considering his age, severe medical complications and the further need of medical care, his prayer for temporary bail can be considered on purely humanitarian grounds. The contention of the learned A.P.P. and the learned counsel of the

intervener that there are no details given in the application regarding the further line of treatment of the applicant in a private Hospital cannot be accepted because it is for the private medical professionals to decide about the further line of treatment and medical care of the applicant after the applicant approaches them for treatment. Hence, only on medical and humanitarian grounds, I am inclined to grant temporary bail to the applicant. Therefore, I proceed to pass the following order :-

ORDER

1. Bail Application No.1062 of 2023 is hereby allowed.

2. Applicant Suresh Dattaram Pawar is hereby released on temporary bail for a period of six months from today, in connection with C.R. No.559 of 2021 registered at Mahim police station for the offence punishable under Sections 420, 409, 467, 468, 471, 120-B r/w. 34 of the Indian Penal Code. He shall be released on temporary bail on executing his P.R. bond of Rs.50,000/- with one or more sureties in the like amount, and on following conditions :-
 - (a) He shall not tamper with the prosecution witnesses and evidence ;

 - (b) He shall furnish his detail address, mobile/contact number, address proof and identity proof at the time of furnishing bail ;

 - (c) In case of change of his residence or mobile/contact number, he shall inform it to the Court and Investigating Officer ;

 - (d) Applicant shall remain present in the trial Court on each and every date unless his personal appearance is exempted by the Ld. Trial Judge.

(e) At the end of six months from today i.e. at the end of his temporary bail period, the applicant shall surrender before the Ld. Trial Court ;

(f) He shall not leave the jurisdiction of this Court without the prior permission of trial Court.

(g) He shall not give any threat or pressurise the complainant and witnesses in any manner which may dissuade them from disclosing any fact of the case to the police officer or to the Court.

3. Bail shall be furnished before concerned Metropolitan Magistrate.

4. Bail Application is disposed off accordingly.

(VISHAL SADASHIVRAO GAIKE)
ADDL. SESSIONS JUDGE,
CITY CIVIL & SESSIONS COURT,
GREATER MUMBAI.

Date : 11/05/2023.

Directly typed on Computer on: 15/05/2023.
Printed on : 17/05/2023.
Signed on :

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER."	
UPLOAD DATE AND TIME 17/05/2023 at 2.55 p.m.	NAME OF STENOGRAPHER Bahushruta Y. Jambhale
Name of the Judge (With Court Room No.)	H.H.J. Shri Vishal S. Gaikar (Court Room No.22)
Date of Pronouncement of JUDGMENT/ORDER	11/05/2023.
JUDGMENT/ORDER signed by P.O. on	17/05/2023.
JUDGMENT/ORDER uploaded on	17/05/2023.