

MHRG170012132024



MHRG170012182024



**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL RAIGAD
COMMON ORDER BELOW EXHIBIT NO.8
IN SPECIAL CASE NO.92/2024 AND 93/2024
(Dated 23/09/2024)**

1] Applicant/accused No.1 Minali Pandey is seeking regular bail C.R.No.77/2024 for the offence p/u/sec.420, 504, 506 r.w.34 120B, of IPC and under section 3 of MPID, Act and in C.R.No.128/2024 registered with Kharghar police station for offence p/u/sec.420, 406, r.w. 34, 120(B) of Indian Penal Code and under section 3 of MPID, Act. As applications in both the cases are similar and accused is same, common order is passed.

In short prosecution's case is as under :-

2] Informant is one Kanchan Yadav residing of Ulwe, Navi Mumbai. It is submitted that, informant is residing in Flat No.604 Pratik Rigaliya, sec.21 Ulwe. In the year 2021 friend of the informant one Sayali and her friend Sunny, were in search of a room on heavy deposit and, hence, they were searching on-line on OLX App. They came across advertisement and they contacted the cell phone number, which was of one Snehal Lokhande. She called the informant and other at Kharghar and introduced accused No.1 Minali Pandey. It is submitted that,

accused No.1 and Snehal suggested that, the informant should also take a room on heavy deposit, she will get handsome rent.

3] It is further submitted that, in the year 2022 her father passed away. Hence, she and her husband started searching a room at Navi Mumbai. Her mother received money of insurance policy of the father. That time Minali Pandey gave call to the informant and informed that, one 2 BHK room is available which should be taken on heavy deposit, and room should be rented. Accordingly the informant agreed. Thereafter room No.A/501 in Aditya Planet, Sec.10, Kharghar was taken on rent for 33 months by paying deposit of Rs.4,00,000/-. This amount was transferred by NEFT in the account of one Vidya Kamble. This room was in possession of tenant Rinky. The said tenant was paying rent to Snehal Lokhande by Google-pay. Initially for period of two months, Snehal Lokhande transferred the amount to the applicant. Thereafter since December, 2023 accused Milani Pandey avoided to pay the rent.

4] Further it is submitted that, when Minali Pandey was called, she told that, one person by name Sachin Zende, who is known to her, is in financial need. He has a room at Kamothe. Minali Pendey suggested to take said room on heavy deposit. Informant and her mother decided to take a room for sister of the informant and, hence, accordingly flat No.F/203 at Alankapuri, Sec.10, of Kamothe was taken on heavy deposit of

Rs.4,50,000/-. Minali Pandey was informed and she asked to come at Little World Mall for the purpose of agreement. It was informed that, Sachin Zende will transfer the rent by on-line transfer. However, in October, 2023 Sachin Zende refused to pay the rent. He told that, he had paid the rent to Minali Pandey. When the deposit was asked to be returned Sachin Zende said that, half amount is taken by Minali Pandey.

5] When the informant, her husband met the accused Minali Pandey, that time accused Minali Pandey, Snehal Lokhande, Sachin Zende, all gave threats.

6] Applicant/accused submits that, her earlier bail application was rejected. Thereafter investigation is completed and charge-sheet is filed. It is submitted that, the allegations are false.

7] During the course of arguments, Ld.Advocate for the applicant/accused Shri Sanket Kadam brought to my notice that, in the arrest memo column No.8, was left blank by the IO and this is violation of section 50 A of Cr. P. C. For this Ld.Advocate placed reliance on the decision of Hon'ble Parent High Court in the decision of **Mahesh Pandurang Naik Vs. The State of Maharashtra and another WP No.13835/2024 with interim application No.14637/2024.** Ld.Advocate also placed his reliance on the decision of Hon'ble Apex Court, in the case of

Pankaj Bansal Vs. Union of India and others. Ld.Advocate also placed on record the copy of memo of arrest of the present accused below list Exh.25.

8] After this Ld.APP Shri Bhopi, sought time to verify about the compliance of section 50 and 50-A of Cr. P. C. On the next date Ld.APP submitted that, the copy of arrest memo produced below list Exh.25, is correct as it is. He further submitted that, already this Court had observed in earlier order that, arrest was necessary and on merit bail application was rejected.

9] Hon'ble Parent High Court in the case of Mahesh Naik Vs.State of Maharashtra, with regard to section 50-A has laid down as under.

“By The Amendment Act, 25 of 2005 w.e.f. 23/06/2006, Section 50-A is introduced, making it imperative for every police officer or other person making arrest, under the Code to forthwith give information regarding such arrest and place where the arrested person is being held to any of his friends, relatives or such other persons as may be disclosed/nominated by the arrested person for the purpose of giving such information. Sub-section (2) of Section 50-A further makes it mandatory for the police officer to inform the person arrested, of his rights under sub-section (1) as soon as he is brought to the police station and the entry of the fact as to who has been informed of the arrest of such person shall be made in a book to be kept in the police station, in such form as may be prescribed in this behalf by the State Government”

10] Further Hon'ble Parent High Court in the concluding paragraph of its decision, directed the public prosecutor to furnish the copy of the Judgment of the Hon'ble Parent High Court, to Director General of Police, who was directed to circulate to all Additional Director General of Police and Inspector General of Police, so that, it is circulated through the Commissioner of Police and Superintendent of Police, to all officers, who were exercising the power of arrest.

11] Thus, it means that, the investigating officer of the present matter, was very well aware of the mandatory requirement of arrest. Admittedly he has not fill column of arrest memo in both the cases. It is crystal clear that, the arrested person, was not informed the grounds of arrest, her legal rights. The column of date and time of such information, was admittedly, left blank by IO.

12] As there is a violation of mandatory statutory provisions, which are brought to my notice, in the present bail application, at the fag end of the argument, I am of the view that, without touching to the merits and de-merits of the prosecution's case, applicant/accused No.1 deserves to be enlarged on bail for non-compliance of section 50 and 50-A of Cr. P. C.

13] As the merits are not touched, there is no need for me to discuss about the say filed by the victims of the crime.

14] Applicant/accused No.1 in both the cases deserves to be enlarged on bail for non-compliance of mandate of section 50 and 50-A of Cr. P. C. I pass following order.

ORDER

1. Bail application filed below Exh.8 in Special Case No.92/2024 and No.93/2024 are allowed.
2. Applicant/accused No.1 Minali Pandey C.R.No. 77/2024 for the offence p/u/sec.420, 504, 506 r.w.34, 120B, of IPC and under section 3 of MPID, Act and in C.R.No. 128/2024 registered with Kharghar police station for offence p/u/ sec.420, 406, r.w. 34, 120(B) of Indian Penal Code and under section 3 of MPID, Act **in each case be enlarged on SB and PB of Rs.50,000/- each.**
3. Applicant/accused No.1 in both the cases shall file an undertaking that she will attend concerned police station on every 2nd and 4th Monday of the month from 11.00 a.m. to 01.00 p.m. till further orders.
4. Applicant/accused No.1 shall not directly or indirectly induce or threat the informant, victims of the crime, witnesses or any other person related with the crime.
5. Applicant/accused No.1 shall not leave jurisdiction of this Court without prior permission of the Special Court. She shall deposit her passport if any with IO.

6. Applicant/accused No.1 shall furnish names of her three blood relatives alongwith their permanent address proof and mobile numbers.
7. Bail before this Court.
8. Inform concerned police station.
9. Copy of order be placed in both proceeding.
10. Inform jail authority by E-mail.

Panvel
Date :-23/09/2024.

(Jairaj D.Wadne)
Additional Sessions Judge,
Panvel-Raigad

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of the stenographer : S.J.Sheth
Name of the Court : Additional Sessions Judge,
Panvel Raigad
Date of dictation : 23/09/2024
Order signed by the P.O.on : 23/09/2024
Order uploaded on : 30/09/2024