

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

CRIMINAL BAIL APPLICATION NO.2095 OF 2013

Pralhad Chavatrao Lavand ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. A. P. Mundargi, Senior Advocate, i/b. Rupesh A. Zade
for the Applicant.

Mr. V. B. Konde-Deshmukh, APP, for the Respondent-State.

Mr. Priyal G. Sarda for the Intervener in APPP
No.791/2013.

Mr. Rajendra Rathod-head constable, DYSP Office, Solapur
-present in Court.

CORAM : A. R. JOSHI, J.

DATE : 20th December, 2013

P.C. :-

1] Heard learned senior counsel for the applicant.
Also heard the learned APP for the State and learned
advocate for the intervener.

2] Present application is preferred by the applicant
for the release on bail in the matter of offences
punishable under Sections 420, 409, 465, 467, 468, 469,
427, 120(B) read with Section 34 of the Indian Penal Code.
Apart from the present applicant, there are six other known
accused persons and about more than 160 other unknown
persons.

3] The complaint in the matter is filed by one

Vivekanad Umberje, the Director of Swami Samartha Sahkari Sakhar Karkhana Ltd., the sugar mill situated at Village Dahitane, Taluka Akkalkot, District Solapur. The said sugar mill is run by the sitting MLA being Chairman of the said sugar mill. As per the first information report, present applicant then working as agriculture officer with the said sugar factory was given the additional charge as a Managing Director since 9th July, 2012. He was given the work to deal with farmers, labour contractors and transport contractors from cutting sugar and transport of sugarcane from the agricultural fields to the premises of the sugar factory. He was also given the rights to enter into contracts with the various contractors, transport operators and agriculturalists and he was given rights to provide advances to them and to recover the outstanding amounts, if any, and it was in the season during the period ending somewhere in March 2012. According to the allegations in the first information report, during the said period, apparently 177 workers and 265 bullock-carts were contracted and the amount of Rs.9.98 crores was disbursed to different contractors, labourers and agriculturalists and it was done under the authority of present applicant, being incharge of the post of Managing Director since 9th July, 2012 as the earlier Managing Director had already resigned. According to the complainant, in the said disbursement, a defalcation was made by the present

applicant to the tune of Rs.4 crores 48 lakhs till first week of February 2013. It is alleged in the complaint that about 46 contractors did not attend the work at all, however, the amounts were disbursed to them and 123 bullock-cart owners did not transport the sugarcane and out of them few have left the job in the midst and out of them about 59 transport contractors had connived with the present applicant to dupe the sugar factory.

4] During the arguments, the learned counsel brought attention of this Court towards the factual position that when various amounts outstanding were to be recovered back from the contractors or agriculturalists or bullock-cart owners when the attempts were made by the present applicant to recover the said amount, part of the amounts could be recovered. However, the major amount about 2 crores also remained to be recovered and as such sensing the involvement of the present applicant he was abducted and was kept in confinement from 8th February, 2013 to 11th February, 2013. It is also brought to the notice of this Court and it is an admitted position that on 11th February, 2013 present applicant was rescued from the confinement by intervention of police when apparently the applicant gave intimation to the police on his mobile phone when still he was in confinement. He had filed complaint against the Chairman and other officers and Directors of the sugar

factory before Akkalkot North Police Station, District Solapur vide C. R. No.32/2013. Said first information report was lodged on 11th February, 2013 for the offences punishable under Section 363, 364, 342, 387, 395, 504 and 506 of the Indian Penal Code. As the present position stand today and it has been conceded by learned APP that in the said matter investigation is not yet over and apparently the charge sheet is not yet filed. On this aspect, it is further stated on behalf of the applicant that the Chairman of the sugar factory obtained anticipatory bail in that matter, however, there is no information whether other co-accused were arrested or not but the fact still remains that the charge sheet is not yet filed.

5] During the arguments, it is also brought to the notice of this Court on behalf of the applicant that the first information report against him was lodged on 28th March, 2013 and the present applicant was arrested on 12th August, 2013. The date of lodging the first information report is significant. It is further argued on behalf of the applicant mentioning that the initial complaint lodged by the present applicant for offence of abduction against the Chairman and other officers of the sugar factory was on 11th February, 2013. Whereas the first information report lodged against the present applicant as mentioned above is

dated 28th March, 2013. This factual position is also brought to the notice of this Court that in the present matter, against the present applicant the investigation is over and charge sheet is already filed on 19th October, 2013 and apparently only one other co-accused by name Raju Khedekar was arrested but released on bail by the Sessions Court. Other co-accused known and also unknown more than 160 persons are yet to be traced out and arrested in the matter.

6] Learned counsel for the intervener brought attention of this Court to the statements of various witnesses and submitted that according to these witnesses though various amounts were outstanding on them to be paid by the sugar factory, some of the amounts were forcibly recovered by the present applicant and also he had not given the receipts though the amounts were taken from them. As such pointing out this, it is argued on behalf of the intervener that the said amounts have been used by the present applicant for his own benefit, thus practicing deception on the sugar factory. Certain receipts are also shown to the Court specifically for amount of Rs.2 lakhs and Rs.1 lakh, apparently showing the signature of the present applicant along with his designation as Managing Director appearing at the back of the said receipts, prima facie showing that these amounts were taken by the applicant from the

concerned banks though the said amounts were payable to two separate individuals for their work done for the sugar factory. Apart from this, it is submitted on behalf of the intervener that there are other criminal antecedents at least two cases, one at Baramati and another one at Solapur against the present applicant and they are also in the matter of offences punishable under Sections 420 and 409 of the Indian Penal Code. On this, learned senior counsel for the applicant submitted that these cases are definitely after the lodging of the first information report by the complainant and also in fact after the lodging of the first information report against the present applicant and these are only in order to create a colourable effect that the present applicant is a habitual criminal and indulging in such type of transactions of deception.

7] All the same, considering the above factual position and mainly considering that the first information report lodged by the applicant against the Chairman of the sugar factory is still under investigation and apparently the charge sheet is not yet filed, and considering the custody of the present applicant since 12th August, 2013 till date, the present application can be allowed with certain conditions as to appearance before the concerned police authority. Hence the present application is allowed with following order:

: O R D E R :

- (i) Criminal Bail Application No.2095 of 2013 is allowed.
- (ii) The applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one surety for the like amount or two sureties for the total amount of Rs.50,000/-.
- (iii) After availing the bail, as above, the applicant shall attend Akkalkot North Police Station, District Solapur on every first and third Sunday of each month between 10.00 a.m. to 12.00 noon till the conclusion of the trial.
- (iv) With these directions, present bail application is disposed of.