

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.4406 OF 2015

Balasaheb s/o Namdeorao Patil,
Age: 50 years, Occ: Building Contractor,
R/o. Plot No.42, Sarang Housing Society
Near Gajanan Mandir, Garkheda Parisar,
Aurangabad.

...Applicant

versus

The State of Maharashtra,
through Police Station Officer,
MIDC Waluj Police Station,
Aurangabad.

...Respondent

.....
Mr. Niteen V. Gaware, Advocate for applicant
Smt. M.S. Patni, A.P.P. for respondent
.....

CORAM : N.W. SAMBRE, J.

DATE : 9th SEPTEMBER, 2015

ORAL ORDER :

The applicant herein, a contractor has agreed to work for the complainant for construction of the house. The total construction to be carried out is 2650 sq. ft. @ Rs.950/- per sq. ft. i.e, total cost of Rs.25,17,500/-.

2. The complainant obtained loan from the nationalized bank from which the amount of Rs.15,00,000/- plus Rs.6,00,000/- total Rs. 21,00,000/- was transferred to the account of present applicant, which according to the complainant, was without his consent and by playing fraud on him. Pursuant to the complaint

lodged, Crime No. 291/2015 came to be registered on 24/07/2014 for the offence punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code.

3. The allegations, upon perusal of the F.I.R., reflects that the applicant along with bank Manager Mr. Rao, has transferred the above amount of Rs.21,00,000/- from the account of complainant without his consent.

4. If the investigation papers are perused, it appears that total construction that was carried out was 2650 sq. ft. on the plot No. 13 at Jai Durga Housing Society. The construction report carried out by the present applicant reflects that the cost incurred as on the date of construction is tune of Rs.22,17,500/-, out of which, the applicant-accused acknowledges the receipt of Rs.21,00,000/-, which was received through bank account.

5. There appears to be signature of the complainant on paper reflecting the above referred payments.

6. In my opinion, the perusal of investigation papers, in the back ground of allegations in the F.I.R. depicts the incorrect story of the complainant.

7. In view thereof, it will be appropriate, in my opinion, to order the release of the accused on bail. Hence, I propose to pass the following order.

(a) In the event of arrest, the applicant be released on bail, upon furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen thousand) with one surety in the like amount, in connection with Crime No. I-194 of 2015 registered with MIDC Waluj Police Station, Dist. Aurangabad for the offence punishable under Sections 406, 306, 420 read with Section 34 of the Indian Penal Code.

(b) The applicant shall attend the concerned police station initially for 3 days, every day between 10-00 a.m. to 11-00 a.m. and thereafter as and when called.

8. The application stands allowed in above terms.

[N.W. SAMBRE, J.]