

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1555 OF 2015**

Suraj Mahadev Mali	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. V. V. Purwant for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

Mr. Mahadev Shankar Mali, father of the applicant is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 14TH SEPTEMBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 222 of 2015 registered with the Sadar Bazar Police Station, Solapur, for the alleged offences punishable under Sections 420, 467, 468, 471 r/w 34 of the Indian Penal Code.

3. The complaint/FIR has been initially lodged by one Manisha Phule, Assistant Commissioner, Social Welfare, Solapur on 6th June, 2015.

However, during the course of investigation, the complainant was found involved in the said offence and hence, she was made an accused. According to the prosecution, the State Government receives fund from the Central Government for Schemes meant for Scheduled Caste and other Backward Class. It is alleged by the prosecution that the amounts that were meant to be given to Scheduled Caste and Backward Class by way of Scholarships were misappropriated by persons from the Social Welfare Department, in connivance with several persons.

4. Learned Counsel for the applicant states that the applicant was aged 19-20 years, at the time when the alleged offence took place. He submitted that the applicant was studying in Savitribai Phule Pune University and has passed his B.E in Computers in first class in the examination which was held in the month of May, 2015. He relied on his Passing Certificate which is at page 37 and the Statement of Marks which is at page 38. He also relied on a Certificate issued by SKN Sinhgad Institute of Technology & Science, which certifies that the applicant was a bonafide student of Computer Engineering at their Institute from 2012-2013 to 2014-2015. The said Certificate is at page No. 39 of the

application. He submitted that the applicant has been made a scape-goat by the co-accused, inasmuch as, various amounts were deposited in the applicant's account and the applicant was made to return the said amounts back to the co-accused. He submitted that the bank entries show that the amounts which were deposited in the applicant's account were thereafter transferred by cheques into the accounts of the co-accused i.e. Amir Mahibub Tamboli, Sarika D. Kale, TOB S. Devkar and Reshma D. Kale. He submitted that the applicant never applied for any benefit under the said Scheme for Scholarship and that the co-accused had made the students, scape-goats in the said crime.

5. Learned A.P.P submits that it appears that the accounts standing in the name of the applicant reflects that an amount of 17 lakhs and odd was deposited in the applicant's different accounts. She submits that out of the said amount, it appears that Rs. 13,90,000/- was withdrawn by the applicant from the ATM as well as by cash withdrawals and the balance amount was paid by cheques to various co-accused.

6. Learned Counsel for the applicant on the instructions of the

father of the applicant, who is present in Court, states that the father of the applicant is ready to deposit a sum of Rs. 13,90,000/- without prejudice to his rights of claiming refund in case the applicant is not found guilty of the commission of the said offence. The learned Counsel has tendered on record an undertaking of Mahadev Shankar Mali, the father of the applicant, wherein, he has undertaken to deposit a sum of Rs. 13,90,000/- without prejudice to the applicant's rights. He has undertaken to deposit the aforesaid amount within three months from today. The said undertaking is taken on record and is marked 'X' for identification.

7. Considering the fact that the applicant is a student and that charge-sheet has been filed in the said case and in view of the undertaking given by the father of the applicant to deposit the said amount of Rs. 13,90,000/-, the applicant deserves to be enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;

- (ii) The applicant shall attend the concerned Police Station on the first and fourth Saturday of every month between 11:00 a.m. to 12:00 noon for a period of three months after his release;
- (iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant to cooperate with the conduct of the trial.
- (vi) The applicant's father to deposit an amount of Rs. 13,90,000 in the Registry of the Trial Court within three months from today. The said amount be invested in a fixed deposit in any Nationalised Bank, initially for one year, to be renewed thereafter from time to time;

(vii) The Trial Court shall pass appropriate orders with respect to the amount so deposited at the conclusion of the trial.

8. It is made clear that the said amount to be deposited by the applicant's father is without prejudice to the rights and contentions of the applicant and it will not be construed as an admission of guilt by the applicant.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11. The matter be listed under caption 'for direction' on 16th December, 2015 to report compliance of the above order of deposit of Rs. 13,90,000/-.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.

CERTIFICATE

Certified to be true and correct copy of the original signed
order.
