IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL BAIL APPLICATION NO.1756 OF 2015**

Keshav Ganesh Phatak .. Applicant
*Versus*
The State of Maharashtra & ors .. Respondents

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Mr.Prathamesh Bhargude, Advocate for the applicant.
Mrs.S.Gajare-Dhumal, APP for the Respondent State.
API V.D. Raut from Vishrambag Police Station,Pune present.

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**CORAM : ABHAY M. THIPSAY, J.**

**DATED : 20th OCTOBER 2015**

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P.C. :

1 Leave to amend. Amendment be carried out forthwith.

2 I have heard Mr.A.V.Anturkar, Sr. Advocate with Mr.Prathamesh Bhargude, Advocates for the applicant. I have heard Mrs.S.Gajare-Dhumal, learned APP for the State.

3 Pursuant to the direction given yesterday, the Investigating Officer is present before the Court. He has, however, not filed any report or affidavit, indicating the facts of the case.

4 When this Court wanted to peruse the case diary, the Investigating Officer submitted that the case diary is not available. According to him, the case against the accused no.1 Rahul Gosavi

was registered some time in the year 2010, and that the case diary written then, is not available in the Police Station. He says that the applicant was apprehended on 13th August 2015, and though the investigation has been carried out by him thereafter, he has not maintained any case diary in respect of the investigation carried out. He also admits before me that no statement of the applicant has been recorded by him, so far. As a matter of fact, no statement of any witness has been recorded by him, so far.

5 It appears that one Rahul Gosavi, through his Company - *Synergey Health Equipment* – obtained loans from several banks by producing bogus documents and making false representations. This was revealed initially to Mahesh Sahakari Bank who lodged a report against the said Rahul Gosavi, alleging cheating, forgery etc. on the basis of which investigation commenced. In the course of investigation, it was revealed that Rahul Gosavi had cheated other banks also. One of these banks is said to be *Janaseva Sahakari Bank* Ltd, from which Bank Rahul Gosavi had obtained a loan of Rs.3,58,00,000/- (Rupees Three Crores Fifty Eight Lakhs) for his said Company. This loan was obtained supposedly for purchasing some medical equipments. The applicant does the business, through his Company – *Varad Technologies Pvt.Ltd* – of supplying medical equipments. Since Rahul Gosavi had represented to the *Janaseva Sahakari Bank Ltd* that the equipments were to be purchased from the said Company, and since the loan proposal was sanctioned, an amount of Rs.3,29,20,000/- was credited by the *Janaseva Sahakari Bank Ltd* directly in the account of the said Company of the applicant. However, the transaction between the Company of Rahul Gosavi

and the Company of the applicant did not actually take place, and as such, the amount received by the applicant's Company was returned to Rahul Gosavi's Company after deducting therefrom 15% plus expenses, as per the terms of agreement between the parties.

6 Rahul Gosavi subsequently committed suicide.

7 The applicant has been arrested on the allegation that he was in collusion with the said Rahul Gosavi and was a party to the fraud committed by Rahul Gosavi.

8 The only basis for implicating the applicant is that the amount sanctioned towards loan was credited in the account of the said Company of the applicant. It is also said that the applicant stood as a guarantor for the loan taken by Rahul Gosavi. That, the applicant offered himself as the guarantor for the loan, is disputed on behalf of the applicant and it is claimed that the signatures purporting to be that of the applicant on the relevant documents, are forged. This aspect has not yet been examined by the Investigating Agency.

9 Even on the basis that the applicant is the guarantor for the loan that was sanctioned in favour of *M/s.Synergey Health equipment Pvt.Ltd*, – Company of Rahul Gosavi, there seems to be no reason to deny bail to the applicant. Even if it is assumed that the applicant indeed offered himself as the guarantor for the loan that was sanctioned, still, that, by itself, would not fasten criminal liability on the applicant.

10 The learned counsel for the applicant, in reply to the submissions made by the learned APP, and on a query made by the Court, submits that the applicant is ready to surrender his passport to the police.

11 It has already been observed that no investigation has been carried out since the arrest of the applicant. The Investigating Officer states that investigation can be carried out even after the applicant is released on bail.

12 Under these circumstances, I am inclined to allow the application.

13 The applicant is ordered to be released on bail in the sum of Rs.1,00,000/- with one surety in like amount, or two sureties in the sum of Rs.50,000/- each, on the condition that he shall attend Vishrambag Police Station, and make himself available for investigation/interrogation everyday between 11.00 a.m to 2.00 pm for a period of one week from release and thereafter, as and when required by the Investigating Officer.

14 The applicant shall surrender his passport to the police within three days from today.

**(ABHAY M. THIPSAY, J)**

## *CERTIFICATE*

***Certified to be true and correct copy of the original signed Judgment/Order.***