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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2731 OF 2014

Nitin Rajaram Nikam ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr.Nitin Sejpal a/w Ms.Pooja S. Bhojane, for the Applicant.

Mr.Y.M.Nakhwa, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATED : 6th MAY, 2015.

P.C.

1. Heard the learned counsel for the Applicant and the learned APP for the State.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.95 of 2014 registered initially with the Goregaon Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420, 465, 467, 468, 271, 272, 255, 256, 260, 120-B r/w Section 34

of the Indian Penal Code and subsequently transferred to the Economic Offences Wing, Unit – II, Mumbai and re-numbered as C.R.No.38 of 2014.

3. The complainant is one Satyanarayan Kari, who was employed as an Estate Agent. It is alleged by the complainant that in 2011, he got acquainted with one Govind who was also doing the business of Estate Agency and that through Govind he met co-accused – Manish and Shyam. It is alleged that in August, 2012 the co-accused – Manish and Shyam called the complainant to Goregaon and introduced him to a person named Nikhil Kadam. The co-accused – Nikhil Kadam is alleged to have purchased flats/rooms alloted from the Chief Minister's quota. As the complainant was in dire need of a room, he requested the co-accused – Nikhil Kadam to allot him one room. According to the complainant, Nikhil Kadam informed him, that he would get him a room, for about Rs.15 lacs. The complainant is alleged to have handed over a part of the amount to Nikhil Kadam. It is alleged that pursuant to the representations made by Nikhil Kadam and inducement by the family members of Nikhil Kadam the complainant is stated to have paid a further amount of Rs.4.50 lacs to him. Accordingly, Nikhil Kadam is alleged to have handed over one letter issued by Padmakar Walvi that one Room No.3030, MHADA Colony,

Vidisha Nagar, Goregaon was alloted to the complainant. Subsequently, on 14th February, 2013, a further amount of Rs.8 lacs was handed over by the complainant to Nikhil Kadam and as such since August 2012 to February 2013, the complainant is stated to have paid a sum of Rs.15 lacs to Nikhil Kadam. It is alleged by the complainant that for the Stamp Duty, he was required to even pledge his gold ornaments. According to the prosecution, similar transactions were entered into by Nikhil Kadam with 14 other persons. It is alleged that by submitting bogus documents, including government seals and stamps, the accused have siphoned a sum of Rs.2.04 crores.

4. Learned Counsel for the applicant contended that the only material qua the present applicant is, recovery of various stamps of various authorities from his residence. He submits that the applicant stands on a better footing then the other co-accused who have been enlarged on bail. He submits that the other co-accused who have been enlarged on bail are the persons who had actually used the forged documents and stamps in the transactions.

5. Learned APP opposed the bail application. He submitted that there

is a report of the Kapol Bank which shows that the franking stamps and seals, which were endorsed on the agreement of sale were all forged and fabricated. He submitted that there is a recovery of 61 articles i.e. fake stamps/seals/printers at the behest of the applicant. He does not dispute that other co-accused who have used the documents, have been enlarged on bail.

6. Perused the charge-sheet. The only material qua the present applicant, *prima-facie* is recovery of seals/rubber stamps/printers of various authorities from the residence of the applicant. Learned APP has not been able to point out a single statement of the witnesses, to show that the applicant was also present along with the other co-accused, at the time when the seals/stamps were used. No doubt, Section 120-B has been applied to the present case. However, considering the fact that the other co-accused, who have used the seals and stamps on the documents, have been enlarged on bail ; the fact that the investigation is complete and charge-sheet is filed and the material as against the applicant, the Applicant is enlarged on bail on the following terms and conditions ;

ORDER

i) The Applicant be enlarged on bail on furnishing P.R.

Bond in the sum of Rs.25,000/- with one or more sureties in the like amount ;

ii) The Applicant shall attend the Economic Offences Wing, Unit – II, Mumbai once a fortnight i.e on 1st and 3rd Sunday of every month between 10.00 a.m. to 12.00 noon, till the conclusion of the trial;

iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released, within two weeks, 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 Economic Offences Wing, Unit – II, Mumbai ;

iv) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case;

v) The Applicant shall not leave Mumbai and Thane District, without the permission of the Trial Court ;

vi) The Applicant shall co-operate in the conduct of the trial and shall attend the concerned Court on every date of the hearing ;

vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. Considering the peculiar facts of the case, the trial is expedited. The learned Judge shall make an endeavour to decide the case, as expeditiously as possible.

8. The Application is allowed and disposed of in above terms.

9. Needless to observe, that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.

10. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)