

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [BA] No.88 of 2015

(Dr. Suchitkumar Diwan Ramteke and another
vs.

The State of Maharashtra, through P.S.O. Chandrapur [City], District Chandrapur)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Mr. S.A. Chaudhari, Advocate for the Applicants.
Mr. S.M. Ghodeswar, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : MARCH 3, 2015.

Heard Mr. Chaudhari, the learned Counsel for the applicants.

The applicants are before this Court seeking their enlargement on bail in connection with Crime No.218/2014, registered at Police Station Chandrapur (City) for the offences punishable under Section 420 and 409 of the Indian Penal Code.

The learned Counsel for the applicants invited my attention to the report lodged at the instance of one Shailesh Barde. The sum and substance of the report is, the applicant no.1 along with his associates floated a company in construction activity under the name and style as "Matrix Infra Care India Pvt. Ltd." at Chandrapur. The aim of the company was to provide residential flats and bungalows as well commercial complex. A property show was arranged at Chandrapur in a meeting hall. The proposed purchasers were assured of

discounted rates, if minimum booking is received by the company by an advance payment. As the offer of the company was attractive one, the complainant has shown his willingness for purchase of a flat and accordingly paid an advance amount. When it was found that, there is no progress in the scheme of the company, on approach to the applicant no.1, the applicant no.1 gave assurances of return of the amount with handsome interest. Some cheques were also issued to the purchasers. A monthly meeting was called and there was an assurance of interest on the return amount. When the cheques were deposited, the same resulted in bouncing for the reason "insufficient funds". The complainant alleged that the applicants and it's company were responsible for the breach of trust and loss of the amount to the tune of Rs.42,18,250/-.

The learned Counsel for the applicants submits that for attracting the alleged offences against the applicants, the basic requirement should have been the intention of the applicants of the deception. The submission of the learned Counsel for the applicants is, the applicant no.1, who is possessing degree of M.B.B.S., floated the company and was interested in the activity of a construction company. The learned Counsel submits that the applicant no.1 is the director and the applicant no.2 is the Manager of the company. He by inviting my attention to the documents placed on record at Annexure-II

submits that a plan was submitted to the Government Authority for Special Planning viz. MHADA. The learned Counsel, by inviting my attention to the communication forwarded by the Assistant Director of Town Planning, Special Planning Authority (MHADA), Chandrapur, dated 26/11/2013 to the Tahsildar, Chandrapur, submits that this communication refers to the plan received by the Office of MHADA and the approval of MHADA subject to certain conditions. It is the submission of the learned Counsel for the applicants that considering the academic backdrop of the applicant no.1 and the documents, namely the plan submitted to MHADA and the approval granted by MHADA, the intention of the applicants is clearly of providing accommodation under the flat scheme. He then invited my attention to certain photographs to submit that the applicants were proceeding for completion of the scheme, but for delay in certain financial aspects, the work was delayed. He submits that the framework and the brickwork was in the process. Thus, it is the submission of the learned Counsel that there was no intention of playing mischief by the applicants. He further submits that the applicants also floated a scheme of like nature at Nagpur and on the backdrop of similar allegation, an offence was registered against the applicants at Dhantoli Police Station. The applicants apprehending their arrest had approached this Court by filing Criminal Application [ABA] No.399/2014 and

considering the material, this Court allowed the application and granted protection in the nature of pre-arrest bail to the applicants. The learned Counsel submits that in the present application, the applicants are on better footing, namely the material is collected by the investigating agency and the applicants are praying for enlargement on bail.

Mr. Ghodeswar, the learned A.P.P. opposes the application. The reply is filed by the State. The learned A.P.P. submits that as the investigation is not yet complete and the charge-sheet is yet to be filed, the applicants may not be enlarged on bail.

On considering the material placed on record, more particularly the plan submitted to MHADA and the approval granted by the Office of MHADA, it reveals that the applicants have complied with the necessary formalities and as such the intention was to get necessary approval from the appropriate authority and complete the construction activities. The communication of the Office of MHADA shows that there was no breach of any serious condition, but the compliance was on the aspect, such as arrangement for rain water harvesting, payment of certain charges within a stipulated period etc. The perusal of the photographs also shows that framework and the brickwork of the scheme is under process. On perusal of the order passed by this Court on 05/09/2014, in my opinion, the learned

Counsel for the applicants was justified in submitting that in the present case, the applicants stand on better footing. The applicants were protected by the pre-arrest bail order. On the backdrop of the similar circumstance, except in the Criminal Application No.399/2014, the sanctioning authority is N.I.T., whereas in the present application, it is the MHADA, there is also merit in the submission of the learned Counsel for the applicants that the applicants are not having any criminal antecedents to their credit and there cannot be any apprehension that the applicants, if enlarged on bail, would flee away from justice or from the hands of the investigating agency and would either cause any hindrance in investigation or pressurize the witnesses.

Considering all these aspects, in my opinion, the learned Counsel for the applicants has made out a case. The apprehension of the State can be taken care of by imposing certain conditions on the applicants.

In the result, the application is allowed. The applicants be released on bail on their furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) for each with one or two sureties in the like amount on the following conditions.

- i. The applicants to attend Police Station Chandrapur (City) on every second and forth Sunday of the month from

09:00 a.m. to 12:00 noon and maintain diary of their attendance duly countersigned by the Police Station Officer or the Investigating Officer, till commencement of the trial.

- ii. The applicants shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicants to submit their residential address and contact numbers, such as phone/mobiles numbers, to the investigating agency or in case of change.
- iv. In case the applicants are moving out of the area of Police Station Chandrapur (City), they shall take permission and inform the concerned Police Station about their visit to other place.

In case of any breach of the conditions by the applicants, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

JUDGE

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