

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

CRIMINAL APPLICATION NO.196 OF 2016

Motiraj s/o Bhajnu Rathod,
Age 73 years, Occu. Retired,
R/o Kala Niwas, Banjara Colony,
Aurangabad

..Applicant

Versus

The State of Maharashtra,
through City Chowk Police Station,
Aurangabad, Dist. Aurangabad

..Respondent

Mr M.R. Jadhav, Advocate for applicant
Mr U.S. Mote, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 14th January 2016

PER COURT

Heard.

2. The applicant, an accused in Crime No.I-212/2015 for the offences punishable under Section 420, 406, 408, 467, 468 and 471 read with Sec.34 of Indian Penal Code was ordered to be released on regular bail by order dated 5th January 2016, on the following conditions :

A) The applicants be released on bail on his executing PR and SB of Rs.25,000/- with one or two surety of like amount from Crime No.I-212 of 2015, for the offence u/s 420, 406, 408, 467, 471 r/w 34 of I.P.C., registered at City Chowk Police Station, Aurangabad

B) Applicant is directed to deposit Rs.1,36,00,000/- (Rs. One Crore Thirty Six Lakhs only) so that, said amount and balance amount from freezed accounts of him can be adjusted towards recovery of misappropriated amount of trust property.

C) He is further directed to attend concerned Police Station on every Monday in between 2.00 p.m. to 4.00 p.m. till filing of charge-sheet.

D) He is further directed not to tamper prosecution witness and evidence.

E) Deposit of amount mentioned in Clause "B" shall be condition precedent.

F) He shall not leave the country without prior permission of the trial Court.

G) Bail before learned Magistrate.

3. The condition (B) directs the present applicant to deposit an amount of Rs.1,36,00,000/-.

4. The present application is for relaxation of condition.

5. Learned Counsel for the applicant has tendered affidavit sworn by Sau.Kala, wife of the applicant stating therein that the amount of Rs.30,00,000/- which is lying in Fix Deposit along with the Plot No.7-B at Mauje Garkheda out of Survey No.10, which is worth more than 1,50,00,000/- being market value should be considered as a security. In the said affidavit it is stated by her that the said property with amount in Fix Deposit will not be mortgaged or no charge will be created till the decision of trial, if any initiated against the applicant.

6. In view of above, in my opinion, the Fix Deposit, the details of which are narrated in the affidavit i.e. the amount of Rs.30,00,000/- and the above referred immovable property shall be accepted as security in compliance of Clause (B) of the bail order. Upon release, the applicant within one week shall furnish an undertaking that till decision of the trial, if initiated against him, he shall not withdraw the amount. The contents of affidavit dated 13.1.2016 are accepted as an undertaking to this Court. The Bank with whom Fix Deposit of Rs.30 lakhs is made, be informed of this order.

7. As such, the applicant herein be released on bail having been complied with the condition (B) of the bail order. It is made clear that the amount of Rs.1,94,96,691/- which is seized be forthwith deposited in Fix Deposit with the nationalised Bank. The Sessions Court which shall deal with the trial shall deal with the said issue of depositing the amount subject outcome of trial.

8. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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