

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2921 OF 2016

Ashok Sampatrao Kutwal,
Age : 65 years, Occu. Pensioner,
R/o Near Panchayat Samiti Office,
Tuljapur, Tq. Tuljapur,
District : Osmanabad .. Applicant

Vs.

The State of Maharashtra
Through Police Station,
Tuljapur, Tq. Tuljapur,
District : Osmanabad .. Respondent

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Mr. S.J. Salunke, Advocate for the applicant
Smt. R.P. Gour, APP for the respondent-State
Mr. M.P. Tripathi, Advocate to assist APP.

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CORAM : N.W. SAMBRE, J.
DATE : 30/06/2016

ORAL ORDER :

Heard.

2. Shri. Salunke, leaned counsel for the applicant, upon instructions, submits that the applicant volunteers to deposit an amount of Rs.13,46,487/- before the learned Magistrate, who

will be trying the case in Crime No. 68 of 2016. According to him, the said deposit is without prejudice to the rights of the applicant to claim refund, if he is acquitted in the said matter.

3. Crime no.68 of 2016 is registered at Tuljapur Police Station, Dist. Osmanabad against the applicant for the offences punishable under section 420, 406, 468, 471 of the Indian Penal Code.

4. The prosecution case appears to be that the applicant, an ex-employee of the State Transport Department, was chief promoter of a proposed co-operative housing society of the employees from the said department. Pursuant to the award passed on 28/2/1990 in relation to 0.66 R land out of survey no. 211/2 at Tuljapur, an amount of Rs.56,232/- was received by the applicant against the land, which was owned by the proposed co-operative housing society and was invested in some other land, in relation to which some dispute is pending before the

competent Court. It is then claimed in the FIR, that the acquisition of 0.66 R land has resulted into granting enhanced compensation of Rs.13,46,487/-, which was received by the applicant, though, in law, he was not entitled to and as such, he has committed the offence in question.

5. According to learned counsel for the applicant, the applicant was subjected to police custody for a period of about a week and the investigation is almost complete. According to him, in absence of any criminal antecedents and fact that the applicant is very much available for the investigation and prosecution, the applicant be released on bail, particularly, in the light of the condition incorporated hereinabove.

6. Learned A.P.P. opposed the application on the ground that there is a prima facie involvement of the applicant in the crime in question, as the property which was owned by proposed co-operative

housing society, was tried to be swallowed by the applicant. Learned A.P.P., who is assisted by learned counsel for the complainant. He also opposed the application.

7. In my opinion, the applicant is entitled to be released on regular bail, in view of the fact that the applicant has shown his bonafides by undertaking to deposit an amount of Rs.13,46,487/- with the learned Magistrate, who shall be dealing with the matter, within a period of four (4) weeks from today.

8. If the applicant fails to deposit the said amount within four (4) weeks from today, the bail granted shall automatically stand cancelled and the Investigating Officer will be at liberty to take the applicant into custody. Hence, the following order:-

9. The applicant be released on bail in Crime no. 68 of 2016 registered with Tuljapur Police

Station, Dist. Osmanabad for the offences punishable under section 420, 406, 468, 471 of the Indian Penal Code, upon his executing P.R. bond in the sum of Rs.15,000/- (Rs. Fifteen Thousand) with one surety in the like amount.

10. The applicant shall not tamper with the prosecution evidence or influence the witnesses in any manner.

11. The applicant shall co-operate in trial and shall not seek unnecessary exemptions. The applicant shall not protract the trial.

12. Any attempt on the part of the applicant to protract the trial, if noticed by the learned Court below, it shall be open for the Court below to proceed with cancellation of bail of the applicant.

13. Criminal Application stands disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-