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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 917 OF 2016

Chandrakant Laxman Thakur ..Applicant.

Vs

The State of Maharashtra ..Respondent.

Mr Vinod Kashid for the applicant.

Mr Deepak Thakare, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 10th October, 2016

P.C.

1) This is an application under section 439 of the Code of Criminal Procedure, 1973 for bail in C.R. No. 103 of 2015 dated 25/4/2015 registered with Wadala Police Station, Mumbai under sections 406, 420, 467, 468, 471 read with section 34 of the Indian Penal Code.

2) Heard the learned counsel for the applicant, the learned APP and also perused the copy of the charge-sheet annexed to the present application.

3) The first information report is lodged by Smt. Swati Manchekar. It is stated in the said report that the mother-in-law of the first informant namely Smt. Indira Manchekar was the owner of hut No. 19, Indira Nagar Hutment Area

opposite Panchsheel Nagar, Saltpan Road, Wadala (East), Mumbai-37, admeasuring 10x16 sq.ft. That her mother-in-law expired on 14/8/2013 in a car accident. As the said room was in dilapidated condition, the complainant was intending to carry out repairs of the said room. She therefore contacted the applicant who is the civil contractor. The applicant told her that an amount of Rs.3,00,000/- will be required for repairs of the said room. Accordingly an agreement was entered into between the first informant and the applicant. After the said agreement, the applicant instead of doing repair work in the said room demolished it and constructed a new room. The applicant informed the first informant that the expenses for reconstruction of the said room were Rs.10,00,000/-. The complainant subsequently realized that electricity meter which was standing in the name of Smt. Indira Manchekar has been transferred in the name of Mr Hanif M. Kazi. It was revealed to the complainant that the applicant has sold the said premises to Mr Hanif Kazi by using a forged will of Smt. Indira Manchekar. That in pursuance of the forged

and/or fabricated will of Smt. Indira Manchekar, the applicant entered into a document of sale of said room with the said Mr Hanif Kazi. In the premise, the first information report is lodged. During the course of investigation, the applicant was arrested on 6/11/2015. That after completion of investigation, the police have submitted charge-sheet.

4) The learned counsel for the applicant submitted that the co-accused namely Mr Hanif M.Kazi has been granted pre-arrest bail by this Court by its Order dated 21/1/2016. He submitted that as a matter of fact the deceased had given rights pertaining to the said room to the applicant and in furtherance of the said rights he constructed the said premises. He submitted that it is only after the dispute between the complainant and the applicant with respect to the share of profit arisen, the complainant has lodged the present crime. That the investigation pertaining to the present crime is completed and the applicant is in jail for last more than ten months and no purpose will be served by further detaining the

applicant in jail. He, therefore, prayed that the applicant may be released on bail.

5) Per contra, the learned APP submitted that the allegation against the applicant is of very serious in nature. That the applicant has forged and/or fabricated the will of Smt. Indira Manchekar thereby claiming rights over the said hut. He submitted that if the applicant is released on bail there is possibility that he may threaten the prosecution witnesses. He therefore prayed that the application may be rejected.

6) After perusing the entire charge-sheet annexed to the application, prima facie I find substance in the arguments of the learned counsel for the applicant. The alleged forged and/or fabricated will of Smt. Indira Manchekar has been taken into custody by the police during the course of investigation. The applicant is arrested on 6/11/2015 and since then he is in jail. The investigation pertaining to the present crime is already completed. According to me, no purpose will be served by further detaining the applicant in jail. The applicant has

therefore made out a case for his release on bail.

Hence, the following order :-

ORDER:-

- (a) The applicant shall be released on bail in CR No. 103 of 2015 registered with Wadala Police Station, Mumbai on his furnishing a P.R. bond of Rs.50,000/- with one or two solvent local sureties in the like amount;
- (b) After his release from jail, the applicant shall attend Wadala Police Station on every first Monday of the month, between 11:00 a.m. to 2:00 p.m. till the conclusion of the trial;
- (c) The applicant shall also attend all the dates before the trial Court;
- (d) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail;
- (e) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses;

The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)