Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1078 OF 2016

Ranaram Bilaji Devasi. ..Applicant.
vs.
The State of Maharashtra. ..Respondent.

Mr. A.H.Ponda i/by R.Kale for the Applicant.
Mrs. Rutuja Ambekar, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 03rd October, 2016

P.C.

1. This is an application under Section 439 of the Cr.P.C. for bail in CR No.184 of 2015 dated 2.6.2015 registered with Antop Hill Police Station, Mumbai under Sections 409, 420, 201, 120(B) read with 34 of the Indian Penal Code.

2. Heard the learned counsel for the applicant, the learned APP and perused the documents annexed to the application. The Investigation Officer Shri. Rajendra G. Sangle has also filed an affidavit dated 20.8.2016 opposing the application, which is on record.

3. The first information report is lodged by Shri. Arvind Patre, Head of the office, from the Office of Controller General of Patents, Designs and Trade Marks having its office at Bhoudhik Sampada Bhavan, Antop Hill, SMD Road, Mumbai-37.

It is stated in the first information report that accused No.1 Ramesh Parab and accused No.2 Jitendra Kumar were working as Pay & Accounts Officer and Assistant Accounts Officer respectively in the said office. That, the said accused Nos. 1 and 2 by taking undue advantage of their official position and without taking proper permission and /or sanction from the concerned authority issued a cheque under their signatures bearing Cheque No. 777618 dated 27.4.2015 for an amount of Rs.2,94,57,737/- (Crores) and presented it on 19.5.2015 with the account of Pay and Accounts Officer payment account, of the said Government agency having Account No.3082283491 with the Central Bank of India, Wadala Branch and for onward drawing a demand draft in the name of M/s. Jay Metals. That, on 26.5.2015 the Central Bank of India, Wadala Branch informed the said fact to the office of the complainant that the demand draft dated 19.5.2015 has been drawn in favour of M/s. Jay Metals. That, the said demand draft bearing No.124315 dated 19.5.2015 was thereafter presented by M/s. Jay Metals in its bank account with Axis Bank, Charni Road Branch, Mumbai for encashment. It is further stated in the report that the Branch Manager of Axis Bank, Charni Road Branch, Shri. Sachin Shettikar found the said transaction to be suspicious and therefore he brought the said fact to the notice of the Chief of the said office Shri. Rajiv Agarwal (IAS), Controller General of Patents Design and Trade

Marks by personally informing him the same. The said transaction thereafter was brought to the notice of the Chief Controller of Accounts, Ministry of Industries, New Delhi. That, in pursuance of the directions issued by the Chief Controller of Accounts dated 25.5.2015, a Committee was constituted and the said committee thereafter conducted preliminary enquiry and submitted its report on 25.7.2015 to the Chief Controller of Accounts and Controller General of Patents, Design and Trade Marks. It was revealed in the said preliminary enquiry that accused Nos. 1 and 2 mentioned herein above, without authority and without obtaining proper sanction has issued the said demand draft for an amount of Rs.2,9457,737/- for and in favour of M/s. Jay Metals. In the premise, the first information report is lodged.

During the course of investigation, it is revealed that the applicant is the owner of the said M/s. Jay Metals. The applicant came to be arrested on 25.10.2015. After completion of investigation the police have submitted the charge sheet. The record reveals that the co accused namely Dhirendra Vyas has been released on pre arrest bail by this Court by an order dated 18.2.2015. That, there are in all seven accused persons. The applicant is accused No.4. The four accused persons have been released either on pre arrest or in regular bail.

5) As far as the role played by the present applicant

in the crime is concerned, it appears from the record that co-accused Dhirendra Vyas, initially had contacted witness Rajesh Jay and informed him that the demand draft for an amount of Rs.3.00 crores would be received by him and others towards the redevelopment of a building and out of the said Rs.3.00 crores, Rs.50.00 lacs will be spent for purchasing, steel and Rs.2,50,000/- will have to be returned to the concerned in cash. The said co accused Dhirendra Vyas requested Rajesh Jain to suggest the name of a company for the same. The said witness Rajesh Jain thereafter, contacted the witness Tarun Shah who in turn informed to Rajesh Jain that M/s. Jay Metals will be able to take such an order for supply of steel in the market. The witness Tarun Shah in his statement has stated that witness Rajesh Jain contracted him on 18.5.2015 and informed him that a party in the market was having a demand draft of Rs.3.00 crores and wanted to purchase steel of an amount of Rs.50.00 for the redevelopment of a building. It was also informed to the said witness that the balance amount of Rs.2.50 crores will have to be returned in cash to the concerned. The said witness Mr. Tarun Shah thereafter contacted the person from M/s. Jay Metals who agreed to confirm the transaction and gave bank account number to M/s. Jay Metals with the Axis Bank. It prima facie appears that the statement of the witness Tarun Shah corroborates the statement of witness Rajesh Jain. It prima facie appears from the record that the said co accused namely Dhirendra

Vyas was a candute between accused No.s 1 and 2 and the applicant. After taking into consideration the evidence available on record, prima facie, it appears that the original accused Nos. 1 and 2 namely Ramesh Pawar, Pay & Accounts Officer and Mr. Jitendra Kumar, Assistant Accounts Officer respectively are the master minds behind the entire crime and at their instance, various persons played their respective role in the present crime.

6. It further prima facie appears from the record that the applicant at the time of receipt of the said demand draft was not aware of the fact that the demand draft has been issued by the concerned by committing defalcation of Government funds and the applicant was lured by the other accused persons to supply steel of substantial quantity and in reciprocation thereof he agreed to deposit the said demand draft in his account. The applicant is arrested on 25.10.2015 and since then he is in Jail. The investigation in the present crime is completed and no further purpose will be served by detaining the applicant in Jail. In view of the peculiar facts and circumstances of the present case the applicant has made out a case for his release on bail.

Hence, the following order.

a) The applicant be released on bail in CR No.184/2015 registered with Antop Hill Police Station, Mumbai on his furnishing PR 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 the Antop Hill 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 attending the Trial Court shall attract the proceedings under Section 439(2) of the Cr.P.C.

e) After his release from Jail the applicant shall furnish his permanent residential address and the address where he resides in Mumbai to the Investigation Officer and/or to the Antop Hill Police Station.

f) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)