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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2285 OF 2015

Satish Dattatray Kshirsagar

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Anil G. Lalla a/w Ms. B.H. Bajwa, Ms. Monika Malkani and Ms. Sohra Kanji i/b Lalla and Lalla for applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM: A.S. GADKARI, J.

DATE : 8th January 2016.

P.C.

1 The applicant is seeking bail in CR No.77 of 2015 registered with Navghar Police Station under Sections 406, 408, 420, 465, 467, 468, 469, 471, 477A r/w Section 34 of the Indian Penal Code.

2 The complainant Maxwell Lobo, Security Officer of UPS Company has lodged the first information report dated 7.4.2015. In the said first information report, it is stated that the said Company had appointed Sree Sai Express Cargo for transporting their goods. The said Sree Sai Express Cargo used to pay octroi to the concerned Government Authority and while claiming the refund, used to charge 1% commission from the

said Company. It is further stated that the co-accused Ajay Pawar and Mr. Vikas Dongare (absconding accused) used to visit UPS Company for the purpose of business transactions. It is further stated that the applicant and the other accused namely Kiran used to stay back in the warehouse. That in the year 2011, Ajay Pawar (co-accused) closed the said Sree Sai Express Cargo and requested the UPS Company to continue their business with Sainath Express Cargo. The UPS Company therefore gave no objection dated 2.7.2011 for the said arrangement. After three to four months, Ajay Pawar (co-accused) went to the said UPS Company for getting further business, however, after taking into consideration the intermittent irregularities, the UPS Company stopped continuing business with the said Sainath Express Cargo. In the year 2014 the officers from Vigilance Cell of the Mumbai Municipal Corporation visited the office of the UPS Company and pointed out that in the 272 transportations the owner of Sainath Express Cargo namely Ajay Pawar has submitted bogus receipts thereby depicting that he has paid an amount of Rs.51,04,274/- to the Mumbai Municipal Corporation. It is lastly stated in the said complaint that between the period from 25.8.2011 to 13.10.2012 the Proprietor of Sainath Express Cargo namely Ajay Pawar and other associates in conspiracy with each other, have misappropriated the said sum of Rs. 51,04,274/- of the UPS

Company. In the premise the first information report has been lodged by the Security Officer of the UPS company.

3 The learned Counsel for the applicant submitted that the main accused i.e. Ajay Pawar has been released on bail by the Trial Court by its order dated 7.10.2015. While releasing the said accused on bail, the learned Trial Court in paragraph-10 has observed that alleged bogus receipts were prepared in a room by Vikas Dongare and/or with the help of Kshirsagar and Atish Gaikwad. It appears that the learned Trial Court gave more weightage to the said aspect while releasing the co-accused Ajay Pawar. The learned APP on the other hand submitted that Navi Mumbai Co-Op Bank issued a letter dated 16.6.2015 thereby stating that the present applicant is the proprietor of M/s Sainath Express Cargo and used to operate the account with the said bank. She further submitted that the applicant therefore is directly responsible for misappropriating the funds of the UPS Company.

4 I have perused the chargesheet and other record produced before me. It appears from the record that the co-accused namely Ajay Pawar was instrumental in getting business and/or contract from the UPS Company. It further appears that the said co-accused Ajay Pawar used to collect the payments from the said UPS Company. Taking into

consideration the fact that the said co-accused Ajay Pawar who has played vital role in the entire crime has been released on bail, I am prima facie of the opinion that the role played by the present applicant is lesser than the co-accused Ajay Pawar. In view of the above, I am inclined to release the applicant on bail.

5 Hence, the following order:

(i) The applicant be released on bail in CR No.77 of 2015 registered with Navghar Police Station, Mulund, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(ii) After his release from jail, the applicant shall furnish his residential address to the Investigating Officer and also to the learned Trial Court.

(iii) The applicant shall not tamper with prosecution evidence and/or influence the prosecution witnesses.

6 The application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)