IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2482 OF 2016

Shri Shyamsunder Radheshyam Agarwal .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr. Vinit Naik, Sr. Advocate a/w. Mr. Karan Kadam, Mr. Sandesh D. Patil a/w. Mr. Pawan S. Patil, Advocates for the Applicant.
Mr. Deepak Thakare, A.P.P. for the Respondent - State.

CORAM : N.W. SAMBRE, J.

DATED : 9th DECEMBER, 2016.

P.C. :

1 The applicant was arrested on 11.11.2016 in Crime No. 201 of 2016 for the offences punishable under Sections 420, 467, 468, 470, 471, 120B of the Indian Penal Code r/w. Section 13(1)(d) of the Prevention of Corruption Act.

2 The prosecution story as could be gathered from the investigation papers is certain lands which were covered under the Urban Land Ceiling and Regulation Act were shown to have been in the agriculture zone instead of the residential zone and by procuring forged certificate to that effect, the property was transferred. The said transaction and deeds on the part of the present applicant who purchased it on 19.12.2006 has duped the U.L.C. authority i.e. State Government of its share and revenue.

3 In the background while trying to make out the case for grant of bail, the learned counsel for the applicant submits that apart from custodial interrogation of 14 days, all the material which is found to be basis for registration of crime i.e. the original of the forged certificate is already seized by the investigating agency. According to him, the applicant has his roots in the society in the said area and being a developer, is very much available for the investigation. It would be then submitted that the property that was purchased by applicant from predecessor in title Estate Investment is already transferred by him on 18.04.2011, which was preceded by N.A. permission under the Maharashtra Land Revenue code. According to him, the further custodial detention of the applicant is not warranted.

4 The learned A.P.P. upon instructions from the Investigating Officer submits that the investigation qua, the role attributed to the applicant is already over and his further custody is not required.

5 Having bestowed my thoughts to the submissions made, it is required to be noted that in 2012 pursuant to a complaint with the police authorities, the senior Inspector of Naupada Police Station has already carried out an investigation in the matter and submitted report to the D.C.P. of the concerned zone thereby giving clean chit to the present applicant. It is then to be noted that the said report which was submitted to the D.C.P. perhaps remain dormant and it is subsequent thereto based on the complaint a fresh crime came to be registered. In the investigation it was found that the land in question bearing survey No.663 old 237 new, 664 old 236 new at Mauje Bhyander, Taluka and District Thane, was a marked

in the development land for the residential use. The property in question was within urban accumulation and subject to clearance under the U.L.C. authority which is avoided based on the alleged forged certificate.

6 The above referred attributions qua the involvement of the applicant as beneficiary appears to have been already investigated.

7 Looking to the nature of the offence alleged against the applicant, the punishment prescribed thereunder in my opinion, the further detention will be of hardly any necessity. Hence, application needs to be allowed.

8 The applicant be released on bail on furnishing P.R. Bond of Rs.1,00,000/- (Rupees One Lakh) with one or two sureties in the like amount. The applicant shall attend police station as and when called for. Two consecutive absence before the Court after filing of the charge sheet will give an liberty to the said Court to proceed with cancellation without being influenced of the above observations. The applicant shall not tamper with the evidence or influence the witnesses in any manner whatsoever.

(N.W. SAMBRE, J.)