

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2475 OF 2015

Mr.Affan Farooque Raut ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Girish Kulkarni i/b Mrunmai Kulkarni for the Applicant
Mr.Shishir Hiray, Special Public Prosecutor with
Ms.Sharmila Kaushik, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 7, 2016**

P.C.:

1. The applicant-accused is prosecuted for the offences punishable under sections 304, 308, 336, 337, 338, 109, 119, 120B, 34, 420, 465, 467, 468, 471, 427 and 37 of the Indian Penal Code and under section 13(1)(d) of the Prevention of Corruption Act. The offence is registered at C.R. No.I-63 of 2013 at Shil Daighar police station. The applicant is accused No.26. It is the case of the prosecution that the accused Nos.1 and 2 and other accused, who claim to be in the construction business, were not having any licence to construct. However, they constructed a building on City Survey No.98(1)(b) near Bhola's cow-shed in Lucky compound and the possession of the residential premises was given to the respective purchasers. Thereafter within 82 days, the entire 8-storied building collapsed when 74 persons died and 62 others were injured in

that mishap. So the offence was registered against those builders and also against the public servants from the Corporation, who allowed them to construct the said illegal construction. Out of them, one Heera Sitaram Patil, who was a Corporator of Thane Municipal Corporation, as per the case of the prosecution, was bribed for not to raise any objection of the unauthorised construction and the applicant-accused acted as his tout who collected various amounts 3 to 4 times from the accused No.2. The applicant-accused was absconding for two years and was arrested on 16.7.2015. He is in prison since then. Hence, this bail application.

2. The learned Counsel for the applicant-accused submitted that this applicant-accused is innocent. He did not play any role in the construction of the building but he was concerned with money collection for Heera Patil. He submitted that even if the case of the prosecution is taken as it is, the applicant has not played any role in the actual construction of the building or in any related with the construction. He submitted that the other accused especially the accused Heera Patil is on bail.

3. Learned Prosecutor has opposed this application and submitted that this applicant has collected money which is illegal gratification for accused Heera Patil. In lieu of that, accused Heera Patil promised not to take any action against the illegal construction. He submitted that the applicant-accused was absconding for two years. Hence, the bail is to be rejected.

4. Heard the learned Counsel for both the parties. Perused the FIR and the documents. Assuming that the applicant-accused has acted as a tout for the Corporator, who kept mum after accepting bribe, it prima facie appears that the applicant-accused himself was not concerned in the actual construction process and was not having any other power in respect of stopping the construction. The applicant-accused is in the prison since 16.7.2015 and chargesheet is filed on 12.10.2015 against the applicant-accused. Hence, I am inclined to grant bail to the applicant-accused on the following terms and conditions:

- i) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.100,000/- (Rupees One Lakh only) with one or two solvent sureties in the like amount.
- ii) The applicant-accused shall not tamper with the evidence or pressurise the prosecutrix, the complainant or her family members;
- iii) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- iv) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.

v) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

5. At this stage, the learned Counsel for the applicant-accused requests that it is difficult for the applicant-accused to furnish solvent sureties immediately and he may be released on a temporary cash bail of Rs.100,000/- and that he would submit solvent sureties on or before 7.4.2016. The oral request is granted accordingly.

6. Bail application is disposed of accordingly.

(MRIDULA BHATKAR, J.)