

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2895 OF 2016

Yogesh s/o Sukhdeo Jagdale,
Age 36 years, Occu. Business,
R/o Gut No.217, Harsul Sawangi,
Taluka and District Aurangabad

..Applicant

Versus

The State of Maharashtra,
through M.I.D.C. Waluj
Police Station, Aurangabad

..Respondent

Mr S.S. Thombre, Advocate h/f Mr M.S. Karad, Advocate for applicant
Mr S.M. Morampalle, A.P.P. for respondent
Mr S.S. Varma, Advocate for intervenor

CORAM : N.W. SAMBRE, J.

DATE : 20th January 2017

PER COURT

1. By this application, the applicant is seeking regular bail in Crime No.0571/2015, registered at M.I.D.C. Waluj Police Station, District Aurangabad, for the offences punishable under Sections 420, 406 read with Sec. 34 of the Indian Penal Code.

2. The prosecution case against the present applicant is, the applicant accepted booking advances from the prospective purchasers of the row houses which he was to develop with other applicant - Sominath, owner of the land, however, has not honoured the same.

3. This Court, on 4th July 2016, issued notice and subsequent thereto pursuant to the submissions made by Mr S.S. Thombre,

granted interim bail, upon assurance given before this Court that the applicant along with other co-accused Sominath shall deposit an amount of Rs.15,00,000/- by 15th November 2016 in this Court.

4. The matter was thereafter adjourned from time to time, pursuant to an undertaking dated 10th August 2016, which is marked 'X' about deposit of amount of Rs.15,00,000/-.

5. The applicant thereafter sought an extension before this Court, as such this Court was constrained to pass order on 16th November 2016. There is a statement made on 19th November 2016 that the applicant will deposit an amount of Rs.15,00,000/- before this Court.

6. Accordingly, the cheque was tendered before this Court which was dishonoured and this Court, on 19th December 2016, while passing detailed order, has observed that the applicant has violated the undertaking given before this Court on 28th July 2016.

7. Present applicant was arrested on 23rd February, 2016 and thereafter the charge sheet in the matter came to be filed. Present applicant is a main accused, as he has taken the land in question for development and accepted booking amount from the prospective buyers.

8. As the project failed to take off, the applicant during the course of hearing of the application expressed his desire to settle the claims of the various complainants and persons who have booked the flats/row houses with him and as such, tendered undertaking before this Court, which is marked "X" for identification on 10th August, 2016.

The applicant through said undertaking has assured this Court that along with co-accused, he shall deposit the amount of Rs.15,00,000/- on or before 15th November, 2016 in this Court. So as to test the *bona fides* of the applicant, this Court released him on interim bail vide order dated 10th August, 2016 and granted permission to deposit the amount as undertaken by 15th November, 2016 in this Court.

9. This Court then noted that on 16th November, 2016 when the matter was heard, statement was made through his Counsel that the amount of Rs.15,00,000/- will be deposited by 19th November, 2016 and as such, the Court adjourned the matter to 28th November, 2016. Present applicant then deposited two cheques for amount of Rs.15,00,000/- on 18th November, 2016 and on 28th November, 2016 sought adjournment from the Court. Thereafter again the matter was adjourned by the applicant time and again and on 19th December, 2016, this Court noted that the cheque for the amount of Rs.7,50,000/- pursuant to the undertaking given to this Court got dishonoured. The Court then having noted that cheque was dishonoured and undertaking given to this Court was flouted, interim bail granted to the applicant on 10th August, 2016 came to be cancelled and posted the matter on 10th January, 2017. On 10th January, 2017, learned Counsel for the applicant sought time, whereas learned Additional Public Prosecutor submitted that pursuant to cancellation of bail of the applicant, he has not surrendered to his bail bonds and as such, he be directed to remain present before this Court.

10. In this background, the matter is being heard today. In the first half, so also in second half, as observed herein above, the applicant remained absent before this Court and his lawyer informed that he has no further instructions from the applicant. The aforesaid conduct on the part of applicant Yogesh Jagdale speaks volumes about his disrespectful attitude to the Court's orders.

11. In view of above background and for the reasons aforesaid, the application is rejected with costs of Rs.25,000/- (Rs. Twenty five thousand only) to be paid to the High Court Legal Services Sub Committee, Aurangabad within a period of four weeks from today.

12. The applicant shall surrender to his bail bonds forthwith, as the bail granted by this Court is already cancelled.

(N.W. SAMBRE, J.)

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