

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 309 OF 2017**

Shirish P. Bhogane

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Niranjan S. Mundargi I/b Ms. Sapana Rachure for the Applicant

Mr. Prashant Jadhav, A.P.P for the Respondent-State

PI Mr. S. B. Kolekar from Taloja Police Station is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 26th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 93 of 2016 registered with the Taloja Police Station, for the alleged offences punishable under Sections 420, 467, 468, 470, 471 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that the applicant is H.S.C pass and was working as a driver with Rahul Keluskar (original accused No.9). He submitted that the applicant is innocent and that the amount of Rs. 9 lakhs transferred from the bogus N.B. Associate's account to the applicant's account, was withdrawn by the applicant and returned back to his employer Rahul Keluskar (original accused No. 9). He submitted that there is no material on record to show that the applicant had forged and fabricated any documents or that he was a party to the same.

4. Learned A.P.P opposed the application. He submitted that the statement of account of the fake N.B. Associates, shows that an amount of Rs. 9 lakhs was transferred from the said account to the applicant's account. Learned A.P.P does not dispute the fact, that the applicant was working as a driver with Rahul Keluskar, at the relevant time.

5. Perused the papers. The complainant is Nilesh Patel, who is a builder/developer of N.B. Associates. In his complaint dated 28th April, 2016, he has stated that he was developing a building by the name `Moon

Light' at Taloja and as such was looking for customers. The complainant had left a word with several people including one Estate Agent, by the name Rajendra Singh Brar. Accordingly, Dashrath Bidwai and others were introduced to the complainant, as they wanted to purchase flats. Dashrath Bidwai booked Flat No. 203; Ratan Ambare booked Flat No. 402 and Shekhar Sarnobat booked Flat No. 202. Each of them paid Rs. 1 lac as booking amount and agreed to pay the balance amount, after one month from the date of registering the Agreement. On 1st September, 2015, the complainant entered into an Agreement with Dashrath Bidwai and Ratan Ambare. Pursuant thereto, Dashrath Bidwai had obtained loans from two banks for his flat i.e. Flat No. 203. Dashrath Bidwai obtained a loan of Rs. 25 lakhs from Navi Mumbai Cooperative Bank on 20th January, 2016 and Rs. 28 lakhs from Punjab National Bank on 10th February, 2016. According to the prosecution, Dashrath Bidwai and one Ravindra Gurme opened a fake account in the name of N.B. Associates in DCC Bank, Mumbra and deposited loan amounts of Rs. 25 lacs and 28 lacs, in the said fake account. Thereafter, the accused disbursed the said amount to various persons, including the applicant. An amount of Rs. 9 lakhs was transferred into the applicant's account, from the fake account of N.B. Associates.

6. A perusal of the charge-sheet shows that there are no allegations of forgery and fabrication of records attributed to the applicant. It is also not in dispute that the applicant was educated only up to H.S.C and was working as a driver with Rahul Keluskar (original accused No. 9). Whether the applicant was a victim/pawn in the transaction or had played any role in the offence, is a matter, which will be decided by the trial Court.

7. Considering the role of the applicant and the nature of allegations *qua* the applicant and considering the fact that the applicant is not alleged to have forged and fabricated any document and the fact that the investigation is complete and charge-sheet is filed, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Monday of every month from 10:00 a.m. to 11:00 a.m, till the conclusion of trial;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.