Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO. 860 OF 2017**

Rajesh Narayan Agarwal ..Applicant.
Vs.
The State of Maharashtra ..Respondent

-----

Mr. Sujay Kantawala a/w Sanjay Agarwal with Neha Ahuja i/b Yogesh M. Rohira for Applicant.
Mr. Ajay Patil APP for State.

-----

**CORAM: A.S. GADKARI, J.**

**DATE : 3rd May 2017.**

**P.C.**

**1]** This is an application under Section 439 of Cr. P.C. for bail in CR No.405 of 2016 registered with Bhayander Police Station for offence under Sectiions 419, 420, 465, 467, 471, 120(B) of the Indian Penal Code.

**2]** It is the prosecution case that, the applicant in connivance with co-accused Rajiv Gupta, Juglesh Gupta and Santoshkumar Singh registered/floated Companies namely Zeme Real Tech Private Ltd., Stanford Textile Pvt. Ltd., Poorvi Realty Pvt. Ltd., Kurmi Developers Pvt. Ltd., Shreyans Corporation, and EVI Enterprises by forging the signature of the first informant with the Registrar of Companies by showing the first informant namely Shri Ravikumar Jaiswal as one of its Director. That the signatures of Shri Ravikumar Jaiswal were forged while submitting documents for registration of the aforestated Companies and subsequently on the Resolutions of the said companies. That some cheques were drawn in favour of the first informant under the signatures of Juglesh Gupta and Santoshkumar Singh. It is the further prosecution case that in all six companies were floated wherein the first informant was shown as the Director and ten bank accounts were opened in his name. That total transactions of Rs.2,86,82,51,900/- were effected in the said accounts. That at the time of registration of offence, Juglesh Gupta and Santoshkumar Singh were working in the office of the applicant. It is alleged by the prosecution that the applicant in connivance with co-accused forged and/or fabricated the documents to claim TDS and other tax benefits. That in the absence of any physical trade, receipt of payments of taxes are fabricated to claim TDS and other tax benefits. During the course of investigation, the applicant was arrested on 16.12.2016. After completion of investigation, the police have submitted chargesheet on 7.3.2017.

**3]** The learned Counsel for the applicant submitted that the first informant was the employee of the applicant who subsequently joined the hands of his competitor Suraj Nandola, a practicing Chartered Accountant and at his behest the present crime is registered by the informant. That of today, the police have submitted chargesheet. He therefore prayed that the applicant may be released on bail.

**4]** The record reveals that the applicant along with other co-accused had preferred an application bearing Bail Application No.168 of 2017 under Section 439 of Cr. P.C. before this Court. This Court by an Order dated 23.2.2017 had rejected the same on the ground that the investigation of the crime was in progress. In the said Order it is recorded that, the learned APP on instructions from the Investigating Officer submitted that Income Tax Department has no say in the present case and there is no complaint about tax invasion against the applicants.

**5]** The record further reveals that during the course of investigation, it is found that no receipts of payment of tax are fabricated by the applicant or other co-accused to claim TDS and other tax benefits and as a matter of fact all taxes are duly paid to the Government Authorities. It is true that that the investigation in the present crime is completed and the police have submitted chargesheet and the report from the hand-writing expert pertaining to the alleged forged signatures of the first informant is awaited.

**6]** The conspectus of the allegation against the applicant as stated above is that, the applicant in connivance with other co-accused have allegedly forged the signature of the first informant at the time of submitting documents for registration of the said Companies and shown the name of the first informant as a Director of the said Companies and have also opened accounts in his name by allegedly forging his signatures. As stated earlier, the Government has not suffered any loss due to the transactions effected in the accounts of the said companies. The alleged accounts opened in the name of first informant are in fact in the name of aforestated companies wherein the first informant has been shown to be the Director of the Companies along with other accused persons.

**7]** After taking into consideration the facts mentioned above, no purpose will be served by further incarceration of the applicant. In view thereof, the applicant can be released on bail.

Hence, the following Order:

(i) The applicant be released in CR No.405 of 2016 registered at Bhayander Police Station on his furnishing PR Bond of Rs.1,00,000/-(One Lakh) with one or two solvent local sureties in the like amount.

(ii) The applicant shall attend all dates before the Trial Court.

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

**8]** The Application is allowed in the aforesaid terms.

**(A.S. GADKARI,J.)**