IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 979 OF 2017

Yuvraj Shivaji Jadhav ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO. 408 OF 2017
IN
CRIMINAL BAIL APPLICATION NO. 979 OF 2017

Prabhakar Shivram Nayak ...Applicant/Intervener

IN THE MATTER BETWEEN :

Yuvraj Shivaji Jadhav ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. V. R. Gaikwad for the Applicant

Mr. S. S. Pednekar, A.P.P for the Respondent-State

Mr. Chetan G. Patil for the Intervener in APPP/402/2017

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd JULY, 2017

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-269 of 2016 registered with the Hatkanangale Police Station, Kolhapur, for the alleged offences punishable under Sections 406, 420, 468, 471, 472, 477A r/w 34 of the Indian Penal Code and under Section 65 of the Information Technology Act.

3. Learned Counsel for the applicant states that the applicant has been falsely implicated in the said case. He submits that the applicant was not working with Bharat Auto Industries and had no concern with the said Company. He submits that the applicant, however, without prejudice to his rights and contentions, is ready and willing to deposit a sum of Rs. 5 lakhs, which is alleged to be the amount siphoned-off by the applicant, in the Registry of the trial Court. He states that the applicant will deposit the said amount within four weeks from today. The said statement is accepted.

4. Learned A.P.P opposes the application. Mr. Patil, learned Counsel for the intervener also opposes the application. Mr. Patil relied on the undertaking given by the applicant and co-accused Sujit Pandit. He

submits that in clause (5) of the said undertaking, the applicant has stated that out of Rs. 27 lakhs received by Lambodar Engineering Works, Rs. 16 lakhs was given to co-accused Sujit Pandit, Rs. 5 lakhs was retained by him, Rs. 4 lakhs was given to one Uday Dye Casting and Rs. 2 lakhs to Mukesh Steel, at the request of the co-accused Sujit Pandit.

5. Perused the papers. It appears that Prabhakar Nayak, aged 80 years, was the owner of Bharat Auto Industries. He had started the said industry in partnership with his son in the year 2000. The co-accused Sujit Pandit was appointed as an Accounts Clerk and was working with the complainant for about 12 years prior to the incident. Co-accused Sujit Pandit was looking after the work of making payments to the suppliers, to the employees by way of salary and other miscellaneous expenses of the said Company. The complainant had reposed full trust in Sujit Pandit and would give blank cheques to him, for the purpose of business. According to the complainant, during the period 13th December, 2014 to 18th August, 2016, Sujit Pandit had transferred various amounts to one Company by the name Lambodar Engineering Works, when infact, the said amounts were due and payable to various other Companies, by Bharat Auto Industries. It

is alleged that Sujit Pandit, instead of paying the said Companies, had diverted the money to Lambodar Engineering Works, a Company which had no concern with the complainant's Company. On verification of the Statement of Accounts with the Canara Bank, the complainant learnt that various amounts were transferred on 19 occasions to the account of Lambodar Engineering Works. Co-accused Sujit Pandit is alleged to have fabricated the accounts statement to show, that the said payments made on 19 occasions were paid to self and not to Lambodar Engineering Works and that he had paid the said Companies. It also appears that prior to the registration of the offence, co-accused Sujit Pandit and the present applicant had confessed siphoning-off the amounts and had set out their liabilities. Learned Counsel for the applicant submits that the said document cannot be looked into, as it is not a part of charge-sheet. As far as the applicant is concerned, he is stated to be the Proprietor of Lambodar Engineering Works, where the amounts were transferred by co-accused Sujit Pandit. Admittedly, the applicant was not working with Bharat Auto Industries. It also *prima facie* appears that it is co-accused Sujit Pandit who has transferred the said amounts to Lambodar Engineering Works, where the applicant was working as a Proprietor.

6. Be that as it may, considering the statement made by the learned Counsel for the applicant on instructions that the applicant is ready to deposit Rs. 5 lakhs, without prejudice to his rights and contentions, the application is allowed. The applicant is accordingly, enlarged on bail, on the following terms and conditions, subject to the condition that the applicant deposits an amount of Rs. 5 lakhs in the Registry of the Trial Court, within four weeks from today;

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 between 10:00 a.m. to 12:00 noon till the conclusion of trial;

(iii) The applicant shall file an undertaking in this Court within two weeks from today, stating therein, that he is ready to deposit the said amount of Rs. 5 lakhs within four weeks from today, without prejudice to his rights and contentions and that he is ready to abide by all the conditions imposed by this Court. The undertaking to be affirmed before the Superintendent, Kolhapur Central Prison;

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

(v) 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;

(vi) The applicant to cooperate with the conduct of the trial and shall attend the trial Court on every date;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The application is allowed in the aforesaid terms and is accordingly disposed of. Looking to the age of the complainant, who is 80 years old, the trial is expedited.

8. 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.

9. In view of the above order, intervention application being Criminal Application No. 408 of 2017 also stands disposed of.

10. List on 17th July, 2017 for compliance. To be listed under caption `for direction'.

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

REVATI MOHITE DERE, J.