

nsc.

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL BAIL APPLICATION NO.1400 OF 2017

Naresh Gajanan Fulore

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Milan Desai i/b Ms.A.M.Desai, for the Applicant.

Ms.Anamika Malhotra, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 11th SEPTEMBER, 2017

P.C. :

1. At the outset, learned counsel for the applicant seeks leave to amend the application. Leave granted. Amendment to be carried out forthwith.

2. Heard learned counsel for the parties.

3. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-473 of 2016 registered with the MFC

Police Station, Thane, for the alleged offences punishable under Sections 420, 406 r/w 34 of the Indian Penal Code and under Sections 3, 4 and 5 of the MOFA Act.

4. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the aforesaid case. He submitted that the applicant is neither the promoter nor the developer of the building which was illegally constructed on the Government land. He further relied on the document which is on page nos.46A and 46B of the application. He submitted that the said document shows that the land in question was sold by the applicant's brother and not by the applicant. He submitted that the applicant is neither a signatory nor a witness to the said document, which is on page nos.46A and 46B of the application. He submitted that the main co-accused – Sunil Rathod has been enlarged on bail by the trial Court. He further submitted that investigation is complete and charge-sheet is filed and that there are no antecedents, qua the applicant.

5. Learned APP opposed the application. She submitted that investigation has revealed that an amount of Rs.1 lakh was transferred in

the Account of the applicant's wife-Kavita by Sunil Rathod. Learned APP states that the prosecution is in progress of filing an application seeking cancellation of bail granted to Sunil Rathod.

6. Perused the papers. The applicant is neither the promoter nor the developer of the building which was illegally constructed on the Government land. The applicant is neither a signatory nor a witness to the document, which is on page nos.46A and 46B of the application. Learned APP is unable to point out any material to show that the applicant had signed any document or had received any amount from the co-accused. It is also not in dispute that the land on which the building is constructed illegally is still in the possession of the Government of India. Investigation is complete and charge- sheet is filed.

7. Considering the role of the applicant, 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 furnishing P.R. Bond in the

sum of Rs.1,00,000/- with one or more local solvent sureties in the like amount;

ii) The Applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till framing of the charge;

iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall not contact the complainant, witnesses or any person concerned with the case;

v) The Applicant shall co-operate in the conduct of the trial.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

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

(REVATI MOHITE DERE, J.)