

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1911 OF 2017**

Mahendra Saremalji Jain	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO. 879 OF 2017 (NOT ON BOARD)
(FOR INTERVENTION)
IN
CRIMINAL BAIL APPLICATION NO. 1911 OF 2017**

Harakchand Savla	...Applicant/Intervenor
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IN THE MATTER BETWEEN :

Mahendra Saremalji Jain Pawesha	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. N. S. Mundargi a/w Mr. H. H. Nagi I/b H. H. Nagi & Associates for the Applicant

Mr. V. V. Gangurde, A.P.P for the Respondent-State

Ms. Manjula Biswas for the Intervener

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 21st SEPTEMBER, 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. 584 of 2016 registered with the Borivali Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that no offence under Section 420 of the Indian Penal Code is disclosed *qua* the applicant. He submits that the applicant is in custody since 26th December, 2016 and that the investigation is complete and charge-sheet is filed. He submits that there is no recovery at the instance of the applicant and that about 27 kg odd silver was seized from co-accused Ladulal Chaudhari. He also submits that the applicant had undergone brain surgery in June, 2016 and is also suffering from tuberculosis.

4. Learned A.P.P and learned Counsel for the complainant opposed the application.

5. Perused the papers. In 2011, the complainant-Harakchand Savla was appointed on the Committee of the Temple i.e. Shree Jain Swetamber Murtipujak Sangh. One Rajubhai Shah was elected as the President of the said Trust and the applicant was appointed as a Secretary of the said Trust. It is alleged by the complainant that during applicant's tenure, the applicant removed silver from a chariot and in connivance with other accused, sold the same. According to the prosecution, the said silver was sold by the applicant to one Ladulal Chaudhary and that with the help of co-accused Rajendra Teli (Manager) and Hiren Baria (Labourer), the said silver was melted. According to the learned A.P.P, about 27 kg odd silver was seized from Ladulal Chaudhary. The anticipatory bail applications of Ladulal Chaudhary and Rajendra Teli, are pending. It also appears that the Trust has filed a Writ Petition in this Court, seeking transfer of investigation from the Borivali Police Station to the Crime Branch. It appears that both, Borivali Police Station as well as Crime Branch are investigating the said case. It is the case of the complainant, that silver worth 330 kgs was taken by the applicant and sold to the other co-accused. Admittedly, nothing is recorded at the instance of the applicant. The applicant is in custody since December, 2016. Investigation

is complete and charge-sheet is filed. It also appears that the applicant has medical issues and had undergone a brain surgery in June, 2016. It also appears that the applicant has been detected with tuberculosis and is under medication.

6. Considering the aforesaid, further custody of the applicant is not warranted. Accordingly, 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 provisional cash bail of Rs. 50,000/-, for a period of six weeks from today;
- (ii) The applicant shall, within the said period of six weeks of his release on provisional cash bail, furnish PR Bond in the sum of Rs. 50,000/- with one or more local solvent sureties in the like amount;
- (iii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;

(iv) The applicant shall not tamper with 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.

7. The application is accordingly disposed of.

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, nothing survives for consideration in the intervention application being Criminal Application No. 819 of 2017. The same stands disposed of accordingly.

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

REVATI MOHITE DERE, J.