

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

BAIL APPLICATION NO. 2094 OF 2017

Rajendra Balu Shelke

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Swapnil Wagh i/b Vikram Tare-Patil for the Applicant.

Mr. S.R. Agarkar, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 11th OCTOBER, 2017

P.C.:

. This is an application under Section 439 of Cr.PC. for bail in C.R. No. 77 of 2016 dated 22.04.2016 registered with Khandeshwar Police Station, Navi Mumbai under Sections 420, 467, 468, 471, 120(B) of the Indian Penal Code.

2 The first information report is lodged by Smt. Savita Dhotre, Labour Officer and Secretary of Bombay Iron and Steel Labour Board, Kalamboli, New Bombay.

It is the prosecution case that, the Applicant in connivance with co-accused Padmakar Chavan, Prabhakar Musalgi, Mahesh Utekar and the Branch Manager of Andhra Bank, New Panvel Branch and other accused persons opened bogus account of Bombay Iron and Steel Labour Board by submitting forged and fabricated documents of Umesh Tole. That the funds of original Bombay Iron and Steel Labour Board, Kalamboli, New Bombay were thereafter, diverted

and/or deposited in the fictitious account opened with Andhra Bank. That the amount which was deposited in the fictitious and/or bogus account of the said Board with Andhra Bank was thereafter, transferred in five bogus accounts of fictitious entities and subsequently the said amounts were siphoned off by the Applicant and other co-accused.

It is further alleged that Bombay Iron and Steel Labour Board therefore, caused loss to the tune of Rs.2 Crores. During the course of investigation, the Applicant came to be arrested on 08.02.2017. It is alleged that the Applicant is beneficiary of Rs.75,00,000/- out of the proceeds of crime. It is further the prosecution case that during the course of investigation, it is disclosed that the Applicant has deposited a sum of Rs.24,25,000/- in another personal bogus account. It is further revealed that, the Applicant has also purchased a plot of land lying and situated at village Palidevad, District Raigad out of the proceeds of crime for an amount of Rs.18,00,000/-. That the said property stands in the name of his wife and mother. During the course of investigation, the police have seized the said amount of Rs.24,25,000/- which was lying in the said account of Applicant. That the police have also communicated to the Revenue Authorities, their objection of further transfer of the said landed property as the same is acquired out of the proceeds of crime. After completion of investigation, the police have submitted charge-sheet.

3 Mr. Wagh, the learned Counsel appearing for the Applicant submitted that,

other two co-accused namely Padmakar Chavan and Prabhakar Musalgi who have been attributed with same and/or similar role in the present crime have been released on bail by the learned Magistrate under Section 437 of Cr.P.C. by an order dated 27.03.2017 and by the learned Additional Sessions Judge, Alibaug, Raigad by an order dated 17.09.2017 under Section 439 of Cr.P.C. respectively. He submitted that as a matter of fact, Padmakar Chavan has been also attributed with the role of destruction of evidence and despite of that the said co-accused has been released on bail under Section 437 of Cr.P.C. He further submitted that police have already seized an amount of Rs.24,60,000/- from the account of Applicant and have also requested the Revenue Authorities, not to transfer the said landed property further. He lastly submitted that the Applicant is therefore, entitled to claim parity with other said co-accused persons and therefore, the Applicant may be released on bail.

4 The learned APP vehemently opposed the application and submitted that the role played by the Applicant herein is different than that has been played by other co-accused persons namely Padmakar and Prabhakar. In support of his contention, he relied on the statement of Shri. Shashikant Shinde recorded under Section 164 of Cr.P.C. He submitted that the Applicant is the master mind of the present crime. He therefore, prayed that the present application may be rejected.

5 Perused the charge-sheet annexed to the application. The statements of witnesses indicates that the Applicant along with Padmakar Chavan and

Prabhakar Musalgi approached various banks for opening accounts in the names of fictitious entities. That the amounts deposited in the fictitious accounts were physically withdrawn by Padmakar Chavan. That Prabhakar Musalgi was instrumental in procuring stamp papers and other documents which were used by all the accused persons in the present crime in opening the accounts and otherwise. It is the allegation against Padmakar by the prosecuting agency that, he is instrumental in destructing evidence after it came to be light of the concerned board about the facts of the siphoning of its funds. After perusing the record, it appears to me that he Applicant has played a little lessor role than Padmakar Chavan in the present crime and therefore, he is entitled to be released on bail on the ground of parity.

6 Hence, the following order.

i) The applicant be released on bail in C.R. No. 77 of 2016 dated 22.04.2016 registered with Khandeshwar Police Station, Navi Mumbai on his furnishing PR bond of Rs.1,00,000/- with one or more solvent sureties, out of which one should be local.

ii) Applicant shall not directly or indirectly make any inducement, threaten or pressurize any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iii) Applicant shall attend the Kalamboli Police Station twice in a week i.e. Wednesday and Saturday in between 11.00 a.m. to 12.00 noon. The

concerned Police Station to inform this Court, if Applicant fails to attend the Police Station.

iv) Applicant shall attend the trial regularly unless the Court exempts him and co-operate with the trial.

v) Applicant should provide his cellphone number and the proof of residential address to the satisfaction of the Investigating Officer.

vi) Applicant should not leave Raigad District without the permission of this Court except to attend the Investigating Officer and the trial.

v) Breach of any condition would amount to cancellation of bail.

vi) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)