

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

CRIMINAL APPLICATION NO.508 OF 2017

Mr. Rajesh Prabhakar Shetty

.... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Pravin Naik, a/w. Sebin Michael, Atmaram Patade, Ankita Kanojia for the Applicant.

Ms. A.A. Takalkar, APP for the Respondent - State.

CORAM : A.S.GADKARI, J.

DATE : 18th DECEMBER 2017

P.C.:

. This is an application for relaxation of Condition No.1 imposed upon the applicant by the learned Additional Sessions Judge-1, Vasai while releasing him on bail by an Order dated 08.06.2017 passed below Exh.1 in Bail Application No.359/2017. The subsequent application preferred by the applicant for relaxation of the said condition has been rejected by the learned Additional Sessions Judge-1, Vasai by its Order dated 02.08.2017.

2. Heard the learned Counsel for the applicant, learned APP and perused the record.

3. The learned Counsel for the applicant submitted that, the condition imposed upon the applicant by the Trial Court is an onerous condition and the said condition to deposit an amount of Rs.15,16,000/- ought not have been imposed upon the applicant. He further submitted that by imposing the said condition upon the applicant, the Trial Court has denied the applicant from coming out of jail. In support of his contention, he relied on decision of the Hon'ble Supreme Court, in the case of *Sandeep Jain Vs. National Capital Territory of Delhi*, reported in (2000) 2 Supreme Court Cases 66. He, therefore, prayed that the said condition may be relaxed.

4. The first information report lodged by Smt. Raj Sharma clearly indicates that, the applicant after accepting a sum of Rs.5,60,000/- did not handover possession of the premises, which is sold to her and was agreed by him. During the course of investigation, it was further revealed that, the applicant by adopting similar modus operandi has also committed the act of cheating with other witnesses and the total amount which is alleged to have been defalcated in the present crime is Rs.15,16,000/-. The Trial Court in its Order dated 02.08.2017 has observed that, the said amount could not be recovered at the instance of the applicant and the applicant has not given any account for the same.

5. It *prima facie* appears to this Court that, the applicant after accepting the said amount from the gullible flat purchasers has committed the act of cheating against them by not handing over the possession of the agreed premises to them and has defalcated the said amount for its personal benefits.

6. After taking into consideration the facts involved in the present case, this Court is of the considered view that both the Orders dated 08.06.2017 and 02.08.2017 passed by the Trial Court are just, right and proper and does not require any interference at the hands of this Court.

7. Application being devoid of merits is accordingly rejected.

(A.S.GADKARI, J.)