

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO. 2205 OF 2017***

Nagnath Maruti Gaikwad

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Ujwal R. Agandsurve, for the applicant.

Mr. Ajay Patil, APP, for the State.

***CORAM : SMT. SADHANA S.JADHAV, J.***

***DATE : 13<sup>th</sup> December, 2017.***

**P.C. :**

1. Heard. This is an application under Section 439 of the Code of Criminal Procedure, 1973.
2. The applicant herein is arrested on 5.5.2017 in Crime No. 213 of 2017 registered at Sadar Bazar Police Station for the offences punishable under Sections 403, 417, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.
3. It is the case of the prosecution that Rahul Bhau Katkar, who is working as Social Welfare Inspector, lodged a report at the Police Station

alleging therein that one Pooja Magasvargiya Knitting and Garments Industrial Manufacturing Co-operative Society, Solapur, which was registered under the provisions of Maharashtra Co-operative Societies Act, 1960, had forwarded a loan proposal for about Rs.2,09,24,000/-. Government funds were to the extent of Rs.1,04,62,000/-. The loan proposal was scrutinized, sanctioned and an amount of Rs.1,04,00,000/- was to be disbursed pursuant to the directions of the Director of Social Welfare. It is alleged that the Chairman had forged 7 x 12 extract and other documents in the loan proposal. They had not complied with the terms and conditions of sanctioning of loan proposal and an amount of Rs.1,00,00,000/- which was disbursed and withdrawn in cash by the Chairman and the Secretary were not utilised for the purpose for which it was disbursed. On the basis of the said information, Crime No.213 of 2017 was registered.

4. In the course of investigation, it had revealed that the loan proposal was initially scrutinized by the present applicant who was working as an Inspector in Social Welfare Department at Solapur. As contemplated under Section 41 of Cr.P.C., the applicant was summoned to the police station. The applicant had disclosed to the police that he had not

scrutinized the documents which were submitted on 7.12.2012 and the documents were already scrutinized by the higher officers on 22.3.2010. It was also submitted that as per the instructions of the Assistant Commissioner of Social Welfare, Mrs. Manisha Khule, the applicant had taken the photographs of the site to indicate that there was no construction on the site. It is also submitted that the undertaking which was given in the compilation of loan proposal on 8.3.2008 did not form a part of the loan proposal which was submitted on 4.11.2007 and which was scrutinized by the present applicant and, therefore, there was no occasion for the applicant to verify the genuineness of the undertaking. It is also submitted that the Social Welfare Department had no knowledge about the forgery of 7 x 12 extract unless it was brought to the notice of the Department by Raghunath Uda. The tenders for construction were opened on 11.11.2011. It is clear from the record that the documents were forged by the Chairman, Secretary and the other directors of the said Co-operative Society. An amount of Rs.1,04,00,000/- was sanctioned. It was transferred in the joint account which was operated by the Chairman and the Director of the Social Welfare Department. The officers of the Social Welfare Department had called upon the Chairman to clear the irregularity and submit the correct account

for the purpose of disbursal of the said amount. However, without taking the file to the officers of the Social Welfare Department, the Chairman had carried the file to the Director of the Social Welfare Department at Pune and the application seeking disbursal/withdrawal of the said amount was directly sanctioned by the Director of the Social Welfare Department.

5. It is pertinent to note that the Director of the Social Welfare Department is not an accused in the present case. In fact vide G.R. dated 22.5.2008, clause No.25, a duty is cast upon the Director of Social Welfare department to verify all the documents prior to sanctioning loan proposal as well as disbursal of the said amount.

6. The learned counsel for the applicant has pointed out that in the present case, there are in all 19 accused persons. The police has arrested the Public servants and the Chairman of the Society and some of the accused are still absconding.

7. It is in these circumstances that the applicant deserves to be enlarged on bail. The co-accused have been enlarged on bail vide order dated 12.12.2017. By virtue of doctrine of parity, the applicant also deserves to be enlarged on bail.

8. The observations made hereinabove are restricted to an

application under Section 439 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

**ORDER**

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.
- (iii) The applicant shall co-operate with the investigation.

The Application stands disposed of.

***(SMT. SADHANA S.JADHAV, J.)***