

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

CRIMINAL BAIL APPLICATION NO.2762 OF 2017

Mangesh Shivram Bhuvad

..Applicant

vs.

The State of Maharashtra

...Respondent

Mr.S.S.Redekar for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent .

**CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 19th December, 2017**

P.C.:

. Heard. This is an application under section 439 of Cr.P.C. The Applicant herein is arrested on 1/11/2017 in Crime No.70/2017 registered at Shriwardhan Police Station for the offence punishable under sections 406, 420 read with 34 of Indian Penal Code.

2. It is the case of prosecution that Eknath Sakhare has obtained a loan from Shri Shantaram Dhondiba Bhanuse for the present Applicant.

3. Mr. Redekar, learned counsel for the Applicant submits that there is no material to indicate that the present Applicant had received an amount which was taken by Eknath Sakhare. He further submits that by order dated 14/12/2017 Accused Eknath Sakhare has been enlarged on bail by this Court in Bail Application No.2852/2017 and that by virtue of doctrine of parity, the present Applicant be entitled to the same relief.

3. It is apparent on the face of record that the FIR was lodged subsequently for recovery of the amount which was given towards hand

loan. It prima facie appears that there was some contract between Eknath Sakhare and the complainant and that Eknath Sakhare had received an amount of Rs.25 Lakhs. However further incarceration is unwarranted. The criminal proceedings cannot be initiated for the purpose of recovery of the amount and at the most it can be a civil liability and that can be considered at the appropriate stage in an appropriate proceedings on the basis of the documents which would show that the amount was transferred in the name of the Applicant. The Applicant deserves to be enlarged on bail since he is in custody for more than a month.

4. The observations made hereinabove are prima facie in nature and shall not be considered for quashing of FIR, discharge application or at the time of trial as they are restricted only to the application under section 439 of the Code of Criminal Procedure. Hence, the order:

ORDER

1. The application is allowed.
2. Applicant-Mangesh Shivram Bhuvad be enlarged on bail on furnishing P. R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
3. Applicant shall report to the Police Station on every Sunday between 10.00 a.m. and 12.00 noon till filing of the charge-sheet.

Application stands disposed of.

(SADHANA S. JADHAV, J.)