

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

ANTICIPATORY BAIL APPLICATION NO.83 OF 2018

Sharad Mansukhlal Mutha	... Applicant
V/s	
The State of Maharashtra	... Respondent

Mr.A.P.Mundargi, Sr.counsel with Mr. M.S.Mohite i/by Mr. Sarang Satish Aradhya for the Applicant.

Ms.Veera Shinde, APP for the State/ Respondent.

Mr.Vithal Bhosle, Havildar Crime branch, Solapur present.

**CORAM : SMT.SADHANA S. JADHAV, J.
DATE : JUNE 06, 2018.**

P.C. :

1. Heard.
2. This is an application under Section 438 of Cr.P.C.. This is a subsequent application. The earlier application filed by the present applicant bearing No.1178 of 2017 was rejected by this court (Coram: T.V.Nalawade, J.) vide order dated 21st August, 2017.
3. The principle accused in Crime No.164 of 2017 registered with Foujdar Chawdi Police station, Solapur was one Mr.Kumar Karajgi, who was President of Juni Mill Sangharsha Samiti.

Pursuant to the orders passed by the High Court, the land on which Juni Mill, Solapur was standing was to be auctioned. The ex-employees had formed Sangharsha Samiti under the Presidentship of Kumar Karajgi. They wanted to participate in the said bid. However, they did not have sufficient funds for participating in the bid and make payment for it in case they were successful and therefore, Mr.Karajgi had allegedly approached Mr.Mutha, who had entered into an agreement and paid a huge amount for the same in lieu of which a large chunk of plot was given in favour of the Sangharsha Samiti, where the tenements were built and allotted to the employees. It is not disputed that the ex-employees have taken possession of the tenements which were built thereupon. It appears from the record that subsequently there were disputes between Sangharsha Samiti and Kumar Karajgi as one of the ex-employee had raised an issue that although he had made due payments, he had not received the plot. In case of the other employees the construction was not completed and subsequently on 23rd March 2017 one Ajitkumar Deshpande had lodged the report at Fouzdar Chawdi police station alleging therein that despite due payment

Mr.Karajgi had given one plot in favour of Jayashri Deshpande, but had not handed over the possession. It was alleged that Mr.Kumar Karajgi has taken undue advantage of the ex-employees and had cheated them in collusion with the present applicant and K.K.Associates. By an order dated 28th November, 2017 Kumar Karajgi was enlarged on bail by this court (Coram: A.S.Gadkari, J.) wherein this court had observed that there would be a liability that Kumar Karajgi and others had defaulted an amount of Rs.2,90,73,234/- of 242 members of Uma Sahakari Grahnirman Sanstha Ltd., Solapur. The applicant Kumar Karajgi had showed his willingness to deposit an amount of Rs.2,90,73,234/-, which he has duly deposited in the court of Judicial Magistrate, Solapur.

4. Thereafter, the present applicant had approached the Hon'ble Apex court, wherein the Hon'ble Apex Court had allowed the applicant to withdraw the application without prejudice to the liberty, if any available to the petitioner under law to take appropriate action at a proper stage. In view of this, the applicant has once again approached the High Court. By an order dated 12th February 2018, this court had allowed the application of

Surendra Karnik who had failed to complete the construction. It was observed that Mr.Karnik had undertaken the work of construction, but since the Court Receiver were appointed the plot were not available for construction and therefore, he could not complete the same. It is a matter of record that taking the case as it is, it can be said that the present applicant had aided and assisted Mr.Karajgi to participate in the bid due to which the ex-employees have got their respective dues. Taking into consideration the facts that the other accused have been enlarged on bail, the present applicant has made out a case for bail. This court is of the opinion that the custodial interrogation in the given circumstance is not imperative. However, the observations are restricted to application under section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR and discharge application or at the time of trial.

ORDER

- i) The Application is allowed.
- ii) In the event of arrest, the applicant be enlarged on bail on furnishing PR bond in a sum of Rs.1,00,000/- with one or two solvent sureties in the like amount.

- iii) The applicant shall report to the concerned police station as and when called and co-operate with the Investigating Agency.
- iv) The application disposed of accordingly.

(SMT.SADHANA S.JADHAV, J.)