

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

BAIL APPLICATION NO. 142 OF 2018

Surendra Shashikant Karnik.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

**WITH
CRIMINAL APPLICATION NO. 137 OF 2018
IN
BAIL APPLICATION NO. 142 OF 2018**

Ajitkumar Nagesh Deshpande.	...Applicant/- Intervenor.
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In the matter between

Surendra Shashikant Karnik.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Shirish Gupte, Sr. Counsel i/b. Mr. K.B. Rajput, advocate for Applicant.

Ms. Veera Shinde, APP for State.

Mr. Nitesh Mohite i/b. Mr. Jaydeep D. Mane, advocate for intervenor.

Mr. Bhagwan Bhosale, Havaladar, Fauzdar Chawdi Police Station.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 12, 2018**

P.C.:

1 Heard the learned counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 13/9/2017 registered in Crime No. 164 of 2017 registered at Fauzdar Chavdi Police Station, Solapur for offence punishable under section 420, 406, 467, 468, 471, 477A read with section 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that pursuant to the order of the High Court, Juni Mill Compound was put to auction. One Kumar Shankar Karajagi had participated in the auction purchase. In order to satisfy claims of the workers and shareholders of Juni Mill Compound, funds were also raised by one Sharad Mutha. Plots were allotted. Kumar Shankar Karajagi formed one Juni Mill Bekar Kamgar Warasdar and Janhit Sangharsh Samiti in the year 1988. It is alleged

by the prosecution that Kumar Shankar by conspiring with Sharad Mutha had formed separate cooperative society by name Uma Cooperative Housing Society. That share certificates were misappropriated and diverted in the account of Uma Cooperative Housing Society. Kumar Karajagi has filed Bail Application No. 1901 of 2017 wherein he was enlarged on bail alongwith Ajit Kumar Nagesh Deshpande by order dated 20/11/2017 by this Court (Coram : A.S. Gadkari, J). It appears that the amount of Rs. 2,59,94,629 was defalcated and misappropriated by Kumar Karajagi and others.

4 As far as the present applicant is concerned, it is the case of the prosecution that some of the allottees of the said society had entrusted work of development of their respective plots with the present applicant. They had initially, paid an amount of Rs. 50,000/- each. The said amount was utilised for levelling of the land and other infrastructure. It appears from the papers of investigation that the allegation against the applicant is that he had not developed the

said plots. It is further the case of the prosecution that the allottees were forced by Kumar Karajagi and others to entrust the work of developer to the present applicant, to open the amount in UCO bank. The applicant happens to be one of the partner of K.K. Builders.

5 It is further alleged that Rs. 25,000/- were paid by the allottees in Samarth Bank for the purpose of development and that the applicant had received several amounts from the allottees under different heads. The applicant herein had undertaken the work of development but according to the prosecution, the Court receiver was appointed and he had not given possession of the said plots for the purpose of development.

6 According to the learned Senior Counsel, in fact, unless possession was given to allottees, they would not have entrusted the work of development. It is clear from the papers of investigation that the applicant had not conspired with Kumar Karajagi for formation of Uma Cooperative Housing Society. It is submitted that supplementary

charge-sheet under section 173 (8) of the Code of Criminal Procedure, 1973 is filed on 8/11/2017.

7 In any case, original accused No. 1 has been enlarged on bail and by virtue of doctrine of parity, the applicant deserves to be granted bail since the investigation is completed and charge-sheet is filed.

8 However, it is made clear that the observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for the purpose of quashing of FIR or discharge application or at the time of trial.

9 Hence, following order is passed :

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/- and one or more solvent sureties in the like amount.

(iii) The applicant shall report to the police station as and when called and cooperate with the investigating agency.

(iv) The applicant shall not tamper with the evidence.

10 The application is disposed of accordingly.

11 Intervention application is heard, allowed and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)