

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 161 OF 2018**

Dashrath Haribhau Bidwai

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Gaurav Parkar for the Applicant

Mrs. P. P. Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 14th AUGUST 2018

P.C. :

1. Heard learned Counsel for the parties.
2. This is the second application preferred by the applicant seeking his enlargement on bail in connection with C.R. No. I-93 of 2016 registered with the Taloja Police Station, Raigad, for the alleged offences punishable under Sections 420, 467, 468, 470, 471 r/w 34 of the Indian Penal Code.
3. Learned counsel for the applicant submits that pursuant to the liberty granted by this Court vide order dated 20th June 2017, the present

application has been filed. Learned counsel submits that till date, the trial has not commenced inasmuch as, charge has also not been framed. He submits that all the co-accused have been enlarged on bail either by the Sessions Court or this Court. He submits that according to the prosecution, the applicant is alleged to have misappropriated Rs. 50 lakhs. He submits that the applicant is in custody since 1st May 2016 and that there are no prospects of the trial commencing in the immediate near future and hence the applicant be enlarged on bail.

4 Learned A.P.P opposed the application.

5 Perused the papers. The first bail application preferred by the applicant was withdrawn after arguing for some time, however, liberty was granted to the applicant to renew his prayer for bail after six months. Accordingly, the first bail application was dismissed as withdrawn with liberty as prayed. Pursuant thereto, the aforesaid application has been filed.

6 The complainant, Shri Nilesh Patel, the sole proprietor of the developer firm 'N. B. Associates' has alleged that he had only one account

with the Indian Overseas Bank at New Panvel; that he had agreed to sell Flat No. 402 to one Ratan Ambare, Flat No. 202 to one Shekhar Sarnobat and Flat No. 203 to the applicant in a building, named “Moon Light”. The complainant has stated that after accepting an earnest amount of Rs. 1 lakh from each of the aforesaid persons, out of Rs. 38 lakhs each, to be paid towards each flat, Agreements to Sell were executed with the said persons. He has stated that the accused forged his NOC, Society's NOC, CIDCO's NOC and other documents and obtained a loan of Rs. 27.48 lakhs from the Punjab National Bank, Kandivali (West) Branch; Rs. 25 lakhs from the Navi Mumbai Co-operative Bank, Panvel and Rs. 30 lakhs from the Bank of India, D. N. Branch and credited the said aforesaid amounts in a fake account opened in “N. B. Associates” i.e. the complainant's business name, in Thane District and as such cheated him of an amount of Rs. 1,09,96,000/-. It is the prosecution case that the applicant is the master mind and that he received an amount of Rs. 49 lakhs out of which Rs. 10 lakhs have been recovered.

7 It is not in dispute that all the other co-accused have been enlarged on bail in whose account some amount was transferred by the

applicant. No doubt, there is *prima facie* material against the applicant showing his complicity in the alleged offence, however, having regard to the fact, that all co-accused have been enlarged on bail and the fact that the trial has not commenced till date and the fact, that the case pertains to documents which have already been seized by the police, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 1,00,000/- with one or more local solvent sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Monday of every month from 10:00 a.m. to 11:00 a.m, till the conclusion of trial;
- (iii) The applicant shall not leave the jurisdiction of the Maharashtra State, without the permission of the trial Court;
- (iv) The applicant shall deposit his passport, if any, in the trial Court;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vii) The applicant to cooperate with the conduct of the trial and shall attend the Court on every date, except in exceptional circumstances, justifying non-attendance.

(viii) The applicant to file undertaking in respect of clauses (ii) to (vii) in the trial Court within two weeks of his release.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.