

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

BAIL APPLICATION NO.287 OF 2018

Sachin Shantaram Gaonkar

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Sukhman Rait for the Applicant.

Smt. J.S. Lohokare, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 23rd JULY 2018

P.C.:

1. This is an application under Section 439 of the Cr.P.C. for bail in C.R.No.847 of 2014 dated 21.11.2014 registered with Mahatma Phule Chowk Police Station, Kalyan, Dist. Thane under Sections 420, 406, 467, 468 and 471 r/w.34 of the Indian Penal Code.
2. Heard the learned counsel for the applicant and the learned APP. Perused the charge-sheet.
3. The prosecution case in brief is that Accused No.1 Majid Ali @ Guddu (absconding) is the mastermind of the present crime. That

the said Accused No.1 in conspiracy with co-accused Mr. Santosh Poojari hatched the present crime. Majid Ali @ Guddu instructed Santosh Poojari to register a firm in the name of a third person, so that they will not be legally responsible for commission of any offence. Accordingly, co-accused Santosh Poojari induced the applicant to registered firm by name "AAI EKVEERA HOMES" and procured license in the name of said firm. The said firm thereafter decided to construct homes for the needy persons at Nevali, Tal. Ambarnath, District Thane on a land belonging to the Government of India. Some structures were accordingly constructed and advertisements were published by Accused No.1 Majid Ali @ Guddu and co-accused Santosh Poojari. About 197 needy persons booked residential premises in the said project as the same were available at the reasonable rates. The accused-persons thus collected the sum of approximately Rs.2,64,00,000/-. It is alleged that the agreements with the said persons were signed by the applicant herein.

It is the further prosecution case that, the applicant and other accused-persons were well aware of the fact that the land was belonging to the Government of India and despite the said fact, in a well planned conspiracy, about 197 persons were duped for their

valuable consideration.

During the course of investigation, the applicant came to be arrested on 21.07.2016 and after completion of investigation, the police have submitted charge-sheet.

4. The record indicates that as per the prosecution case, Accused No.1 Majid Ali @ Guddu is the mastermind behind the present crime. That the said accused Majid Ali @ Guddu in conspiracy with Santosh Poojari planned the present crime and with a view to fulfill their motive had induced the applicant for opening a firm in his name as stated hereinabove.

5. It is the contention of the learned counsel for the applicant that the applicant was a mere employee of the said Majid Ali @ Guddu and was getting Rs.15,000/- per month as salary. It is further submitted that due to the deceit of Majid Ali and co-accused Santosh Poojari, the applicant executed the said documents with the buyers.

6. After perusing the record, *prima facie* I find substance in the submission of the learned counsel for the applicant. It appears from the record that, the accused Majid Ali @ Guddu and Santosh Poojari are the prime beneficiaries of the proceeds of present crime and it

further appears that nothing is recovered at the instance of the applicant. The record indicates that, huge funds have been transferred in the name of co-accused, so also Santosh Poojari has purchased gold ornaments for his personal use from the proceeds of crime. As noted earlier, *prima facie* it appears that the principal-accused Majid Ali @ Guddu and co-accused Santosh Poojari are the accused who hatched the said conspiracy and have duped the needy persons for valuable consideration. As noted earlier, the applicant has acted under the deceit of principal-accused Majid Ali @ Guddu and Santosh Poojari and except getting his monthly salary has not benefited from the proceeds of crime.

7. In view thereof, the applicant can be released on bail.

Hence, the following order.

- a) The applicant be released on bail in C.R.No.847 of 2014 dated 21.11.2014 registered with Mahatma Phule Chowk Police Station, Kalyan, Dist. Thane on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- b) After his release from Jail, the applicant shall attend the concerned Police Station on every first Monday of the month

between 11.00 a.m. to 1.00 p.m.

c) The applicant shall attend all the dates before the Trial Court unless precluded on medical reasons.

d) The applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

8. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)