

Anand

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

BAIL APPLICATION NO. 2961 OF 2017

1. Anayo Linus Egwuchulewu .Applicants
2. Ucenna Fidelis Uqwu

Vs.

The State of Maharashtra .Respondent

Mr. S.Mishra, Advocate, for the Applicants
Mrs. J. S. Lohokare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 03.05.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek their enlargement on bail in connection with C. R. No. 523 of 2016 registered with the Bhandup Police Station, for the alleged offences punishable under Section 420 r/w 34 of the Indian Penal Code; under Section 66(D) of the Information Technology Act & under Section 14 of the Foreigners Act.

3. Learned counsel for the Applicants submits that there is no material to connect the Applicants with the alleged offences. He submits

that the only allegation qua the Applicants is that they transferred / forwarded the account details given by co-accused – Nilesh Kumar to Kalpesh Raja. He submitted that apart from the same, there is nothing to show the complicity of the Applicants with the alleged offences.

4. Learned APP does not dispute the same.

5. Perused the papers. According to the Complainant – Sandeep Ramkumar Singh, he came in contact with a lady, Mercy John, a resident of U. K. on facebook and as such, they became facebook friends and would chat with each other on facebook as well as on Whatsapp. It is alleged by the Complainant that Mercy John told him that she is the Manager of Astrozen Pharmaceutical Company, a pharmaceutical Company in U. K., manufacturing medicines for cancer. Mercy John is alleged to have stated that the said Company was in need of herbal seeds which was a raw material used in the manufacturing of the said drugs and that the said material was cheaper in India. It is further alleged that Mercy John asked the Complainant to become a 50% partner in the said business, to which the Complainant agreed. Pursuant thereto, at the behest of Mercy John, one Mr. William visited India and paid a sum of Rs. 2,50,000/- towards seeds from Anjani

Couriers in the account of Kotak Enterprises (HDFC Bank). The said amount was paid on 05.10.2016 in the account of Kalpesh Raja (ICICI Bank) and several such amounts were paid from time to time. According to the Complainant, he learnt that he was cheated when a case was registered against the accused persons. According to the prosecution, the Applicants gave account details to Kalpesh Raja at the behest of Nilesh Kumar. There is nothing to indicate that the Applicants received any money or any other consideration for the same. Apart from the same, prima facie, there is no other evidence as against the Applicants.

6. Learned APP has also not been able to show any other material. Merely because the Applicants are Nigerians cannot be a ground to reject the Application for bail. It is informed that in connection with another case, the Applicants' passports have been deposited with the Colaba Police Station i. e. C. R. No. 165 of 2015 and the Applicant No. 2 is wanted in C. R. No. 165 of 2015.

7. Considering the role of the Applicants, the Application is allowed and the Applicants are enlarged on bail on the following terms & conditions :-

ORDER

- (i) The Applicants be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/- each** with one or two sureties in the like amount, unless wanted in any other case;
- (ii) The Applicants shall report to the investigating officer of the concerned police station on the **first and third Monday of every month** between **10:00 a. m. and 11:00 a. m.** until further orders;
- (iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released 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;
- (v) The Applicants shall not leave the jurisdiction of Mumbai & Thane City without prior permission of the trial Court;
- (vi) The Applicants shall also not leave India without prior permission of the trial Court;
- (vii) The Applicants to cooperate in the conduct of the trial;
- (viii) The Applicants shall file an undertaking with regard to

clauses (ii) to (vii), in the trial Court, within two weeks of their release;

(ix) If there are two consecutive defaults in appearing before the trial Court or appearing before the investigating officer of the concerned police station or if there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicants' bail.

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.

(REVATI MOHITE DERE, J.)