

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

CRIMINAL BAIL APPLICATION NO.959 OF 2018

Mr. Bharat Velji Satra & Ors.

... **Applicants**

V/s.

The State of Maharashtra

... **Respondent**

WITH

CRIMINAL APPLICATION NO.516 OF 2018

IN

CRIMINAL BAIL APPLICATION NO.959 OF 2018

Jayesh Preji Gala

....Intervener

In the matter between

Mr. Bharat Velji Satra & Ors.

... **Applicants**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Niranjan Mundargi i/by Sarwankar & Co. for the Applicants.

Ms. A.A. Takalkar, APP for the Respondent State.

Ms. K.R. Shah i/by Rishi Bhuta for the Intervener.

CORAM : A.S.GADKARI, J.

DATE : 4th JULY 2018

P.C.:

1. This is an application under Section 439 of the Cr.P.C. for bail in CR No.62/2017 dated 14.08.2017 registered with V.P. Marg Police Station, Mumbai under Sections 406, 420, 409 and 120(B) of the Indian Penal Code.

2. Heard the learned counsel for the applicants, the learned counsel for the first informant and the learned APP. Perused the charge-sheet.

3. As per the charge-sheet submitted by the police, the applicants are Accused Nos.2, 4 and 3 respectively. The first information report is lodged by Shri. Jayesh Gala.

The prosecution case in brief is that, the applicants in conspiracy with other two accused-persons namely Kirit Velji Satra and Velji Bhuralal Satra initially induced the first informant to part with Rs.2 Crores under the pretext of a hand-loan and subsequently when they were unable to return the same, executed documents such as declaration, possession letter and receipt of possession of an immovable property lying and situated at G/22, Nesbit Compound, Nisbit Road, Mazgaon, Mumbai though it was not belonging to them. The applicants alongwith other accused-persons further induced the first informant to part with Rs.6 Crores as hand-loan for their business. That the applicants neither returned the said amount, nor handed over the possession of the suit property to the first informant. It is also the prosecution case that, as the applicants

could not repay the first installment of loan of Rs.2 Crores, they issued 25 chques of Rs.2 Lacs each in favour of the informant from the account of their company namely M/s. Bright Enterprises drawn on The City Cooperative Bank Ltd., Mumbai which were dishonoured on presentation.

4. Mr. Mundargi, the learned counsel appearing for the applicants submitted that Accused No.5 Velji Satra has already filed a suit bearing S.C. Suit No.390 of 2016 in the City Civil Court at Mumbai praying that, the applicants may not be dispossessed from the said suit premises without following due process of law and for other related reliefs. That the concerned Court has granted interim relief in favour of the said Accused No.5 Velji Satra i.e. the father of the applicants.

The learned counsel further submitted that, the applicants are also disputing the execution of receipt of payment and the possession letter executed by their father. He submitted that the first information report as lodged by the informant is a bogus case. That the applicants are arrested in the present case on 23.01.2018 and since then they are in custody. He further submitted that the

police have completed investigation and have filed charge-sheet, and therefore, the further jail custody of the applicants is not necessary. He, therefore, prayed that the applicants may be released on bail.

5. The learned counsel appearing for the first informant and the learned APP vehemently opposed the application.

6. The record indicates that the first informant had initially filed a complaint with police on 29.01.2016 alleging the facts as briefly mentioned in the forgoing paragraphs and as have been elaborately mentioned in the first information report.

The record further indicates that after the lodgment of the complaint by the informant the co-accused Velji Satra filed the aforesaid Civil Suit on 09.02.2016 in the City Civil Court at Mumbai and has been granted interim reliefs by the concerned Court. It is submitted that the said co-accused Velji Satra has also been protected by interim pre-arrest bail under the Orders of this Court.

The record indicates that Accused No.5 Velji Satra has executed possession receipt and the declaration in favour of the first informant pertaining to the afore-stated suit property. It further appears that the applicants have also executed receipt of acceptance

of loan amount dated 12.05.2015 and had assured to handover possession of the said suit property to the first informant, in case they fail to repay the loan amount. It is the contention of the applicants that the said documents were not executed by them and the signatures thereof are forged and fabricated. It is for the applicants to prove the said fact at the time of trial.

7. The record indicates that there is sufficient material available on record to show the clear complicity of the applicants in the present crime. It further appears that the applicants alongwith other accused-persons in a well planned manner initially induced the first informant to part with the said huge amount and has subsequently defalcated it.

8. It is by now the settled possession of law that, economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence of the community. Reliance is placed on the observations made by the Hon'ble Apex Court in the case of *Nimmagadda Prasad vs. C.B.I. reported in AIR*

2013 SC 2821.

9. After taking into consideration the aforesaid facts and material available on record, indicating the clear complicity of the applicants in the present crime, this Court is of the view that the applicants do not deserve to be released on bail.
10. Application is accordingly rejected.

(A.S.GADKARI, J.)