

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 402 OF 2018**

Rahimatulla Khan

.....Applicant

Vs.

The State of Maharashtra

....Respondent.

Mr. Anil D'Souza for the Applicant.

Mr. M.G. Patil APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.**DATE : 8th AUGUST, 2018.****P.C.:-**

This is an Application for modification of condition No. 1 imposed upon the Applicant by the learned Additional Sessions Judge-1, Vasai below Exhibit-1 in Bail Application No. 370 of 2018. The said condition No.1 reads as under-

“1. Accused shall deposit amount of Rs.1,06,00,000/- before the trial court.”

2 The said Bail Application was preferred by three accused persons jointly.

The Applicant is an accused in the said crime wherein, the provisions of M.P.I.D. Act have also been applied by the Investigating

Agency. The Trial Court, after taking into consideration the attending circumstance, has passed the Order directing the Applicants therein to deposit the said amount in the Registry of the Trial Court. It appears from the record that, it is the allegation of the prosecution that the accused persons have defalcated the said amount of Rs.1,06,00,000/- of the gullible flat purchasers and with a view to have equity in the matter, the Sessions Court has imposed the said condition.

Undoubtedly, the offence committed by the Applicant is an economic offence which forms a separate class and needs to be dealt with differently. Reliance is placed on the ratio laid down by the Honourable Supreme Court in the case of Nimmagadda Prasad Vs. Central Bureau of Investigation reported in (2013) 7 SCC 466. The paragraph No. 25 of the said decision reads as under:-

“Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as a grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country”.

3 In view thereof, I find no reason to interfere with the impugned order dated 19th May, 2018 passed by the Additional Sessions Judge, Vasai-1. It is however made clear that, the Applicant

along with other two accused persons is jointly and severally liable to deposit the said amount of Rs.1,06,00,000/- before the Trial Court and if so advised the Applicant can apportion his alleged participation in the crime to 1/3 share of the said amount and may deposit it in the Registry of the Trial Court for availing the relief of bail granted by the learned Additional Sessions Judge-1, Vasai by its Order dated 19th May, 2018.

4 Application is accordingly disposed of in the aforesaid terms.

(A.S. GADKARI, J.)

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