IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2016 OF 2018

Shriniwas Madhav Suryawanshi … Applicant
Vs.
State of Maharashtra … Respondent
…
Mansha Khemka i/by Khemka & Associates for the applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.
...
CORAM : PRAKASH D. NAIK, J.
DATE : 20th DECEMBER, 2018.

P.C.

1. This is an application for bail in connection with CR No.224 of 2016 registered with Andheri Police Station for the offence punishable under section 420, 467, 468, 469, 471 and 120 B read with 34 of Indian Penal Code. The FIR was lodged on 13th April, 2016. The applicant was arrested on 29th December, 2017.

2. The case of the prosecution is that the applicant introduced the complainant to co-accused Dilip Bhosle who provided house and shop under the scheme meant of disabled person from the office of Chief Minister. It is alleged that co-accused Dilip Bhosle induced the complainant to part an amount of Rs.52,68,000/-. It is also alleged that the complainant was shown the forged

document issued by the office of the Chief Minister to falsely represent the complainant that promise made by the accused would be fulfilled and thereby induced him to pay the amount. On completing the investigation chargesheet is filed.

3. Learned advocate for the applicant submits that false representation is made by the co-accused. The amount was allegedly paid to the co-accused. The applicant is not beneficiary of any amount. Co-accused was retired police inspector. False documents were produced by the said accused. There is no evidence to show that the applicant has fabricated the said documents. The period of offence is 2012 to 2014. There is delay in lodging FIR. There is no proof of any payment being made in cash. The complainant has alleged that on the representation of the accused he had prepared the pay order in the name of the concerned authority which was not encashed. The complainant has not issued any cheque in favour of the applicant. The investigating officer did not deem it fit to arrest the applicant during the course of investigation or at the time of filing of chargesheet. No proceedings were initiated under Section 82 of Code of Criminal Procedure. There is no recovery from the applicant. The investigation was completed prior to arrest of the

applicant. The case of the prosecution is based on the documentary evidence which are already in the custody of the police. According to the complainant he has paid an amount of Rs.36,00,000/- in cash and remaining amount was paid vide Demand Draft / cheque of Rs.9,34,000/- and Rs.7,52,000/- respectively. According to the complainant, the demand draft was issued in the name of MCGM and not the accused. Apparently said Demand Draft was cancelled and the money were returned to the complainant. There is no evidence to establish that the applicant has received any cash amount from the complainant. Applicant has been granted bail in the other cases registered against him.

4. Learned APP submitted that false representation made by both the accused to the complainant inducing him to part with huge amount. The applicant had introduced the victim to the other accused. Applicant was present when the false representation was made to the complainant and the amount was parted by him. The accused had also submitted false documents to gain confidence of the complainant for parting the amount. One more case was registered against the applicant for offence under Section 420, 465, 468, 471 of Indian Penal Code. Letter

purportedly issued by the Government of Maharashtra was fabricated by the accused which is a serious offence. Hence, it is prayed that the application be rejected.

5. The contents of the First Information Report indicate that the applicant had introduced the complainant to the co-accused. Apparently, the co-accused was from the police department had represented that he would make available premises under the quota of disabled persons. FIR also indicate that the alleged fabricated letter issued by the Government sanctioning premises to the complainant was produced by the co-accused. First Information Report was lodged after the period of two years. There is no evidence to establish that cash amount has been parted to the applicant. It also appears that in pursuant to the representation made by the accused, the complainant had issued pay order in favour of the concerned authority which was not encashed. There is no evidence to show that any amount by way of cheque / pay order was given to the applicant. Applicant was in custody in another case for a period of six months and he was granted bail. Applicant was arrested after filing of chargsheet.

6. Taking into over all circumstances and considering the fact, the bail can be granted to the applicant on certain terms and

conditions.

ORDER

i. Criminal Bail Application is allowed;

ii. Applicant is directed to be released on bail in connection with C.R. No.224 of 2016 registered with Andheri Police Station on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

iii. Applicant is permitted to furnish cash security of Rs.25,000/- for a period of six weeks.

iv. Applicant shall report the concerned police station once in a month on first Saturday of every month between 11 a.m. to 1 p.m. till further orders;

iv. Applicant shall not tamper with the prosecution witness;

v. Applicant shall attend the dates of hearing before the Trial Court, unless exempted by the Court;

vii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)