IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2165 OF 2018

Ravindranath Sahadevrao Shelatkar,
Age 62 years, Occ.Architect,
R/o.C/1303/1304, Presidential Towers,
LBS Road, Ghatkopar (West),
Mumbai-400 086.
(Presently lodged at Arthur Road Jail) Applicant
versus
The State of Maharashtra Respondent

WITH
CRIMINAL APPLICATION NO.1037 OF 2018

Chapshi Popatlal Shah Applicant
versus
The State ofMaharashtra and another Respondent

Mr.Nitin Dalvi I/by Bhavana Punalekar for applicant.
Mr.A.R.Kapadnis, APP, for State.
Mr.Jagdish G. Shetty for intervenor-applicant in Criminal Appln.1037/2018.

CORAM : PRAKASH D. NAIK, J.
DATE : 26th October 2018

PC :

1. This is an application for bail in CR No.3 of 2017l registered with Matunga Police Station for offences under Sections 419, 420 r/w Section 34 of Indian Penal Code. The first information report was registered on 6th January 2017. The applicant was arrested on 20th February 2018.

2. The case of prosecution is that the complainant is a businessman. In June-2008 he came into contact with the applicant-

accused. The applicant-accused represented the complainant that he is in construction business which is conducted under the name and style of Shelatkar Constructions Private Limited. Subsequently the accused used to contact the complainant and requesting him to invest money in his construction business. He also represented that he is an influential person having contacts with politicians and other influential persons. He also represented that he would develop the properties. He informed that he is developing properties under slum rehabilitation schemes and holding about 200 projects which were shown to the complainant and his relative Mr.Vinod Gala. The applicant-accused represented hat he is developing the said projects and the complainant can execute agreement with him and earn profits. Subsequently the complainant executed agreements in relation to properties at Kirolgaon, Bhatwadi and Pitamaha Ramji Nagar located at Ghatkopar and paid cash of Rs.2 crores to the accused. Thereafter the complainant executed agreement in respect to lands situated at Kamble Compound, Farid Nagar, Pratapnagar Road, at Bhandup and parted amount of Rs.1 crore. He also executed agreement in relation to the property situated at Annabhau Sathe Nagar situated at Mankhurd and made payment of Rs.2 crores in cash. All the payments were made in cash. Subsequently the complainant also executed agreement with the accused in respect to the property at Bandra Village and parted cash amount of Rs.1 crore. The wife of applicant had accepted the amount of Rs.1 crore in respect to the said deal. Thus, the applicant-accused had executed four agreements and accepted Rs.6.06 crores in cash. The payments were made through mediation of applicant's friend Satish Sawant. The accused had promised that the plots will be provided by making arrangement of accommodation of the residents residing in the respective buildings within one month. However, the promises were not fulfilled. The complainant then made inquiries with the residents of the buildings and realized that false promises were made by the accused and the complainant was cheated. On demanding the money, the accused handed over back dated cheques for a sum of Rs.9 crores. Subsequently the accused could not be traced. The FIR was therefore lodged on 6th January 2017. After the arrest of the applicant, investigation had proceeded and on completing the investigation charge sheet is filed. The applicant preferred application for bail before the Sessions Court which has been rejected on 23rd August 2018.

3. Learned counsel for applicant submitted that the applicant has been falsely implicated in this case. There is enormous delay in lodging the FIR. The alleged transactions were executed in 2008 whereas FIR was lodged after a period of about nine years. There is no explanation for lodging the FIR belatedly. The entire payment was allegedly made in cash. The documents relied by complainant are doubtful. The same were not registered. The agreements referred to by the complainant do not make any reference to issuance of any cheque. The FIR refers to the dishonour of the cheques. However, it is the case of prosecution that cheques were not deposited. The agreements relied upon by the complainant do not bear the signatures of directors of complainant's company. The receipts relied upon by the prosecution with regards to acceptance of cash amount do not mention date of issuance of said receipts. It is not signed by any witnesses. It is further submitted that the agreements were for the benefit of complainant. The agreements were purportedly recovered from the premises at the instance of

applicant which is reflected in panchanama. The agreements relied upon by the complainant are photocopies. The complainant has allegedly deposited the cash of Rs.6.06 crores but there is nothing on record to indicate as to how he had made arrangement to collect such huge amount. Thus, it is difficult to accept the case of the complainant that he had made payments by clash. The memorandum of agreement dated 17th December 2008 is purportedly executed after the date of issuance of cheques. The cheques were allegedly issued on 21-11-2008, 29-11-2008 and 9-12-2008.

4. Learned APP submitted that there is sufficient evidence against applicant. The delay in lodging the FIR is on account of the fact that the applicant kept on assuring the complainant that he would fulfill the demand. The documents were executed by the applicant. The receipt of cash amount bears the signatures of applicant. The agreements executed at the instance of M/s.Shelatkar Construction Private Limited also bears the signature of applicant. During the course of investigation it was found that the applicant had made false promises. Although the cheques were issued, there was no sufficient balance in the account of applicant. The cash amount was received by the applicant-accused which is fortified by receipts signed by him. The statement of stamp vendor was recorded which shows issuance of stamp papers for execution of agreements. The requisite permissions were not obtained in relation to the alleged projects and thereby false representations were made to the complainant. The applicant is having antecedents. Five cases are registered against the applicant including present case. The applicant had not attended the Trial Court in the other cases and

hence non-bailable warrants were issued against him. In the event bail is granted, there is every likelihood that he would abscond. The cases pending against the applicant are in relation to the offences under Sections 420, 465, 466, 468 etc of IPC. It is, therefore, prayed that the application may be rejected.

5. Learned counsel for intervenor reiterated the submissions advanced by learned APP. He further submitted that the charge has been framed against applicant. There are criminal antecedents against him. He has no fix residence and there is every likelihood that he would abscond. It is therefore prayed that the application may be rejected.

6. Having heard both the sides I have perused the charge sheet. As stated above, the FIR was registered on 6th January 2017. The occurrence of offence is during the period between June-2008 and December-2008. According to the complainant false promises were made about projects in the year 2008. The cash payments towards execution of agreements was made in the same year. The cheques were also issued to the complainant in the year 2008. The entire consideration was purportedly paid in cash. The memorandum of agreements relied upon by the complainant do not bear the date of its execution. The receipts are purportedly signed by the applicant, but there is no date on the receipts. The memorandum of agreements mention the name of party of the first part but does not bear the signature of the directors of complainant's company. Admittedly the cheques were not deposited in the account of applicant's company. However, it is alleged that on inquires with the banker of applicant, it was found that there was no sufficient amount

in bank account. Hence, the cheques were not deposited. The statement of the partner of the complainant was recorded on 4th March 2018. Although it is the case of the complainant that transactions were executed in the year 2008, there is no plausible explanation as to why the FIR was registered after a period of about nine years. Learned counsel for applicant also pointed out that non-bailable warrant was issued against the applicant in one of the case as he was stationed at Jammu in relation to the project and subsequently the said warrant was cancelled and in one of the case, the applicant was granted exemption till further orders. It is further submitted that the applicant has fixed place of residence and he is willing to provide the proof of residence to the investigating officer. The applicant is in custody from the date of arrest i.e. 20th February 2018. The investigation is completed and charge sheet is filed. Taking into consideration the aforesaid circumstances, further detention of the applicant is not necessary and case for grant of bail is made out.

7. Hence, I pass following order :

ORDER

(i) Criminal Bail Application No.2165 of 2018 is allowed and disposed off;

(ii) The applicant is directed to be released on bail in connection with CR No.3 of 2017 registered with Matunga Police Station, Mumbai, on furnishing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(iii) The applicant shall provide the proof of his residence to the Trial Court while executing the surety bond;

(iv) The applicant shall not tamper with the evidence;

(v) The applicant shall attend the Matunga Police Station, Mumbai once in a month on every first Saturday between 10 am and 12 noon till further orders;

(vi) The applicant shall attend the Trial Court on all the dates of hearing regularly, unless exempted by the said Court for some reason;

(vii) The applicant is permitted to furnish cash security in the sum of Rs.50,000/- for a period of four weeks.

8. Criminal Application No.1037 of 2018 also stands disposed off.

(PRAKASH D. NAIK, J.)

MST