

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

CRIMINAL BAIL APPLICATION NO. 2235 OF 2018

Chirag Shyamji Gada	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Suhas Oka I/by Mr. Vinayak Patil for the applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.
Mr. Vinay Mutdak, API, Narpoli Police Station is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 30th NOVEMBER, 2018.

P.C.

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant was arrested on 3rd March, 2018. The offence was registered vide CR No. I-94 of 2018 with Narpoli Police Station for the offence punishable under Sections 420, 406, 465, 467, 468, 471 read with 34 of Indian Penal Code and 48 (7)(8) of the Maharashtra Land Revenue Code.

2. The prosecution case is that forged documents were utilized for constructing the building. The complaint was lodged by Circle Officer for the area of Kharbav Revenue Mandal including Kalher, Kharbav, Karivli, Khoni, Junandurki and Chimbipada villages. He received complaint in respect to construction going on at the

Village Kalher Kasheli. Therefore, he inspected the same at the site of Survey No. 114/Part, Hissa No. 0, situated at Kalher village. During enquiry the complainant found NA order bearing No. MAHASUL/K-1/TE-3/NAP/SA, 21/2010 and 44/2010 dated 12th August, 2010 issued by the Collector of Thane at Thane. Complainant addressed letter to the office of the Collector, Thane and enquired in respect to aforesaid NA order. The Office of Collector Thane replied that the said NA order was issued to some other person and not issued in respect of Survey No. 114, Hissa No.0 Kalher village. It is therefore alleged that NA order is forged and fabricated. The accused Gopal Mukadam had given land for development to M/s Vikti Enterprises. It is therefore alleged that on the basis of said forged NA order, applicant had constructed building and executed sale agreement with proposed buyers. It is alleged that building was constructed on Survey Nos. 14, 22, 25, 27, 36 and 40 and not on survey No.114 Hissa No. 0 Kalher Village. It is further alleged that without any permission in accordance with Section 48 of the Maharashtra Revenue Code, the accused excavated and constructed building. The First Information Report was lodged on 24th February, 2018. On completing investigation, chargesheet has been filed.

3. It is the contention of the applicant that the applicant had constructed one building on Survey No.114, Hissa No.2. Learned counsel for the applicant drew my attention to the agreement executed with Gopal Mukadam and others on 27th December, 2016 for development of property to Vikti Enterprises in respect to Survey No. 114 Part II. He pointed out that the owners all requisite permission of N.A. Order, development permission etc. were obtained by owners from appropriate authority. It is submitted that on the basis of the said agreement and documents furnished, the alleged construction was carried out. He further submitted that similar FIR was registered in respect to similar transaction and wherein the accused was granted bail by the Sessions Court. He pointed out the order passed by the Sessions Court in C.R. No. I-104 of 2018 registered with Narpoli Police Station granting bail to Mahesh Redekar. He pointed out order of bail granted to the accused who had allegedly developed the property after executing agreement for development with Gopal Mukadam. The matter relates to documents. The premises were occupied by the flat purchasers and application for regularisation of the building is pending before the appropriate authority. It is thus submitted that further detention of the applicant is not

necessary.

4. Learned APP submitted that forged documents were utilized in the nature of NA order, permission for construction etc. and construction of building was carried out by the accused. Documents were recovered from the possession of the applicant. The offence is of serious nature. Accused is involved in forgery of the document. Main accused is absconding.

5. On perusal of the development agreement dated 27th December, 2016, it can be seen that Gopal Mokadam and others had executed the said agreement with M/s Vikti Enterprises through applicant. It is stated therein that the plot referred to in agreement is to be developed and the owners have all requisite permission for development. Reference is made to development permission. The contention of applicant is that the said documents were handed over to the applicant. Apparently, documents were recovered from possession of applicant. Similar cases are registered in respect to the property in Survey No. 114 wherein Gopal Mokadam had executed the agreement for development to the other accused. The applicant is concerned with construction of one building. The applicant executed development agreement for part of Survey No. 114 Part, Hissa No. 0 Kalher Village. The

applicant is in custody from the date of arrest. During the course of investigation, the prosecution has not been able to show the involvement of the applicant in the forgery of document. The other signatories to the said agreement development except Gopal Mukadam had preferred an application for bail and they have been granted bail. The accused who were arrested in similar cases were granted bail as pointed by the learned counsel for the applicant. There are no criminal antecedents against the applicant. In the light of aforesaid circumstances, case for grant of bail is made out. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 94 of 2018 registered with Narpoli Police Station on furnishing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- iii. Applicant shall report the concerned police station once in a month on First Saturday of the month between 10 a.m. to 12 noon till further order;
- iv. Applicant shall not tamper with evidence;

- v. Applicant shall attend the dates of hearing before the Trial Court, unless exempted by Court;
- vi. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)