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

BAIL APPLICATION NO.2312 OF 2018

Ramesh Nagnath Kadam

..Applicant

Vs

The State of Maharashtra

..Respondent

Advocate Mr. Sachin Pawar for Applicant.

Mr. Pravin Chavan, Special P.P a/w Mr. Amit Palkar for Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 3rd December 2018.

P.C.:

1] This is a successive application for bail. The earlier Application for bail bearing No. 2463 of 2015 preferred by the applicant was dismissed by this Court by a speaking Order dated 27th January 2016.

2] Heard the learned counsel for the applicant and the learned Special P.P. Perused the entire record.

3] The present application was heard at length on 31st October 2018 and at the request of Shri Rajiv Chavan, the learned Senior Counsel for the applicant, the matter was adjourned to 21st November 2018 for

further hearing, as the senior counsel was intending to advance further arguments. On 21.11.2018, the Registry of this Court received. Written Arguments dated 20.11.2018 on behalf of the applicant through jail. The said written arguments were forwarded along with a covering letter by the Superintendent of Thane Central Prison, Thane. The said fact was pointed out to the learned senior counsel for the applicant and thereafter he sought time to ponder over the said Written Arguments dated 20.11.2018 and to take instructions in that behalf. On 22.11.2018, Mr. Chavan, the learned senior counsel expressed his inability to continue with the matter, as the applicant had shown distrust upon him and with the permission of this Court, he gracefully withdrew his appearance from the matter. The matter was thereafter adjourned to 30th November 2018 for further hearing.

On 30.11.2018, the Registry placed before this Court a further communication allegedly dated 17.11.2018 received by the Registry on 29.11.2018. The said communication is signed by the applicant and it was sent through jail with a grievance that, the prosecution is purportedly delaying the hearing of the present application. In the said communication dated 17.11.2018 forwarded by the applicant through jail, he has made additional statements /submissions seeking bail.

4] The record indicates that, apart from Bail Application No.2463 of 2015 the applicant has preferred eight other applications, either for temporary bail and/or for regular bail which have been turned down by this Court on various occasions.

Despite the said fact, I heard Shri Pawar, the learned counsel for the applicant at length and also perused the Written Arguments sent by the applicant through jail dated 20.11.2018 and the communication/letter dated 17.11.2018.

Prima facie it appears that, apart from passage of time, there is no change in the circumstance which would make this Court to change its view, as expressed in Order dated 27.1.2016 and permit the applicant to be released on bail.

5] The learned Special P.P on instructions submitted that, apart from the present crime, the applicant is also involved in ten other crimes and tendered across the bar a list of the same. The said list is reproduced hereunder for brevity:-

Sr.No.	Crime No.	Police St.	Date of Regist.	Sections
1	80/2015	Kadim Jalana police station	23.4.2015	409,420, 120(b), 465,468, 471, 109 r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of

				P.C.Act
2	107/2015	City Police St. Buldhana	22.05.2015	409,420, 120(b), 465, 467,468, 471, 109 r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of P.C.Act
3	160/2015	Bhandara Police St. Bhandara	09.06.2015	409,418,420, 120(b), 465, 467,468, 471,474 109 r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of P.C.Act
4	119/2015	City Police St. Hingoli	2015	409,420, 120(b), r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of P.C.Act
5	227/2015	Sadar Bazar Police st.Solapur	2015	408,409,420, 120(b), r/w 34 IPC
6	135/2015	Shivaji Nagar Police St.,Beed	09.05.2015	409,420, 120(b), 465, 467, 468, 471, 109 r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of P.C.Act
7	88/2015	Nava Mondha Police Station Parbhani	11.05.2015	409,420, 120(b), 465, 467, 468, 471, 109 r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of P.C.Act
8	134/2017	Anand Nagar Police St. Osmanabad	03.06.2017	406,409,420, 120(b), 465, 467, 468, 471, 109 r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of P.C.Act
9	302/2017	City Police St. Buldhana	06.06.2017	406,409,420, 120(b), 465, 467,

				468, 471, 109 r/w 34 IPC
10	373	City Police Stt. Solapur	31.05.2017	406,409,420, 120(b), 465, 467, 468, 471, 109 r/w 34 IPC and Sec 13(1)(c) r/w Sec 13(2) of P.C.Act

6] It is to be noted here that, while in judicial custody two more offences are registered against the applicant for threatening the Police Officer on duty and for using criminal force against police officer who were performing their lawful duty. The said offences are as under:

1	197/2017	Nagpada Police St. Mumbai	19.05.2017	186, 189, 504, 506(II)of IPC
2	222/2017	Nagpada Police St. Mumbai	02.06.2017	353, 504, 506 of IPC.

7] It will not be out of way to place on record the fact that, the Division Bench of this Court in Criminal P.I.L No.9 of 2017 has also taken cognizance of misbehaviour of the applicant in Court precincts and the said fact has been recorded in Orders dated 21.8.2017, 19.9.2017 and 6.8.2017. The observations made therein are self-eloquent.

8] A useful reference at this stage can be made to a decision of the Honourable Supreme Court in the case of *K.K. Jerath Vs. Union Territory of Chandigarh & Ors*, reported in 1998 (4) SCC 80. The Supreme Court has

held that, if the public interest requires detention of citizen in custody to avoid resulting in tempering with evidence, the accused must be detained in custody.

It may be further useful to refer to the decision of the Honourable Supreme Court in case of *Masroor Vs. State of Uttar Pradesh & Anr*, reported in 2009 (14) SCC 286, wherein it is held that, the collective interest of the community may outweigh the right of personal liberty of the individual concerned. The antecedents at the discredit of the applicant coupled with the facts mentioned hereinabove indicate that the collective interest of the community/society requires detention of the applicant during the pendency of the present case.

The prosecution has expressed a strong apprehension that, there is every possibility that, the applicant may either influence the prosecution witnesses and/or may tamper with evidence, if released on bail. The said apprehension has substance in it, in view of the fact that, the applicant in judicial custody has indulged in offences of threatening the police officers who were performing their lawful duties under the garb that he is a Member of Legislative Assembly.

In view of the above, it is apparent if released on bail will

create serious problem for the law enforcing agencies.

9] The Honourable Supreme Court in the case of *Nimmagadda Prasad vs. Central Bureau of Investigation* reported in (2013) 7 SCC 466 in Para 25 has observed 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.”

Undoubtedly, the present crime alleged against the applicant of defalcating huge Government funds is an economic offence and needs to be dealt with separately.

10] After taking into consideration the aforestated facts, this Court is of the considered view that, the applicant does not deserve to be released on bail.

Bail Application is accordingly rejected.

11] The record indicates that, the applicant is in jail since 7.8.2015 and till date the charge is not framed. In view thereof, the learned Special Judge seized of Special Case No.104 of 2015 along with case No. 108 of

2015, 24 of 2016 and 29 of 2016 is hereby directed to expedite the trial of the said case as to conclude the same as early as possible. That the trial be conducted on day-to-day basis.

The learned Special P.P submitted that, he will not seek adjournments before the Trial Court except on medical ground and will co-operate with the Trial Court in concluding hearing of the said case expeditiously.

(A.S.GADKARI, J.)