

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2295 OF 2017
Suresh G. Agarwal and anr. vs. State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.M.S.Mohite I/by S.V.Bhakre for the Applicant.
Smt.J.S. Lohokare, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 12th July, 2018

P.C.

1. This is an application under Section 439 of the Code of Criminal Procedure Code for bail in CR No. I-380/2016 dated 23.8.2016 registered with Narpoli Police Station, Bhiwandi, District Thane under Sections 406, 417,420, 467, 468, 470, 471 read with 34 of the Indian Penal Code.
2. The applicants have been directed to be released on bail, by an Order dated 2.8.2017 passed below Exh.1 in Bail Applicator No.1875/2017 by the learned Additional Sessions Judge, Thane. While releasing the applicants on bail, the concerned Court has imposed a condition that the

applicants shall deposit an amount of Rs.1.00 crore each in the concerned bank and after being released on bail, within one month the applicants shall secure the arrears of bank amount by mortgaging properties of the value sufficient to recover the arrears amount.

3. Mr. Mohite, the learned counsel appearing for the applicant submitted that till last one year the applicants tried to make all possible attempts to deposit the said amount with the concerned bank however, they could not succeed in it. He submitted that due to the said onerous condition imposed by the Trial Court the applicants are languishing in jail despite there being an order of bail. Mr. Mohite tendered across the bar Undertakings in the form of Affidavit of the applicants and Mrs. Archana Suresh Agarwal and Ms. Karishma Suresh Agarwal, wife and daughter of the applicant Suresh G. Agrwal respectively. The wife and daughter of applicant No.1 have stated that an amount of Rs.13,62,418.46 and Rs.21,95,608.99 are lying in their respective bank accounts with Thane Janata Sahakari Bank Ltd. and the said account has been freezed

by the Investigating agency during the course investigation.

The learned APP. on instructions conceded to the said fact, that the said accounts have been freezed by the Investigating agency.

Thus, the Investigating agency has freezed a total amount of Rs.37,66,818.79. The immovable property of the applicants has already been seized by the investigating agency during the course of investigation. It is submitted by the learned counsel for the applicants that the said immovable property and component of cash as mentioned herein above would certainly make an amount of approximately Rs.2,00,00,000/- in its totality and in view thereof the said condition imposed upon the applicants be suitably modified.

3. It is a matter of record that, despite there being an Order granting bail to the applicants dated 2.8.2017 by the learned Additional Sessions Judge, Thane the applicants are still languishing in jail as they could not comply with the said condition of deposit of Rs.1.00 crore each in the concerned bank. In view of the undertakings given by the

applicants, Mrs. Archana S. Agarwal and Ms. Karishma S. Agarwal and the fact that an amount of Rs.37.66.819.79 has already been seized by the investigating agency which is lying in their respective accounts with Thane Janata Sahakari Bank, I am inclined to modify the said condition Nos. (b) and (c) and release the applicants on bail subject to compliance of other conditions imposed upon them by the learned Additional Sessions Judge, Thane by Order its dated 2.8.2017

4. In view of the above, the condition No.(b) and (c) i.e. deposit of Rs.1.00 crore each and after being released on bail, within one month the applicants shall secure the arrears of bank amount by mortgaging properties of the value sufficient to recover the arrears amount by the applicants are hereby modified and waived and in pursuance of the said understandings given by the applicants, the wife and daughter of the applicant No.1 Suresh G. Agarwal, the applicants be released on bail in view of the undertakings given by them. The said conditions are hereby accordingly waived.

5. It is made clear that that applicants and Mrs. Archana S. Agarwal and Ms. Karishma S. Agarwal shall not claim any equity in any proceedings before any Court pertaining to the aforesaid amounts and the property seized by the police as stated in the undertakings. The said amount shall remain seized during the pendency of the trial and at the end of trial the concerned Trial Court shall pass appropriate order in that behalf.
6. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)