

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

BAIL APPLICATION NO.2586 OF 2018

Manoj Ambalal Sanghvi
(At present Arthur Road Jail)

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Mr.Rizwan Merchant a/w. Mr.Ramiz Shaikh i/b. M/s.Rizwan Merchant & Associates, Advocate for the Applicant.

Mr.Y.M. Nakhwa, APP for the Respondent - State.

Mr.Mehul Shah, Advocate for the Intervener.

Mr.Nitin Chavan, PI, V.P. Road Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 22, 2018.

P.C. :

This is an application for bail in connection with C.R.No.214 of 2018, registered with V.P. Road Police Station on 31st August, 2018. Applicant was arrested on 4th September, 2018. The offences were registered under Sections 465, 467, 468, 471, 420 read with Section 34 of Indian Penal Code ("IPC", for short).

2 The case of the prosecution is that the complainant is working with Vollourec the company from France which manufactures steel pipes. He is the head of sales in the said

company. The complainant represent the said company in India and deliberates with companies interested in purchasing pipes in India. The company has factories for manufacturing seamless steel pipes in France, Germany, America, Brazil and China. The pipes are used in petroleum refinery, electricity factories. Vallourec is incorporated in 1931. Alongwith seamless steel pipes manufactured by Vallourec, MTC (Mill Test Certificate) is issued. MTC contains details of name of manufacturing company, address, trademark of company, chemical characteristics, date, MTC number with signature of factories quality manager. Toshiba International (Europe) UK had placed purchase order for seamless pipes of Vallourec in 2013-14. IN the order it was stated that, the goods be sent to its Indian Counterparts "Toshiba J.S. to Power System Private Limited at Haryana. It was also intimated that the pipes would be used at Meja Thermal Power Plant, Allahabad. As per order Vallourec Company sent goods from France and Germany. Shri Amit Alawat, procurement head sent MTC for verification to France in January 2017. on Scrutiny, the legal manager of Vallourec company found that the MTC is bogus. The information was received by complainant on 16th January, 2017, that there is blast of pipe of company and one person has died. There was explosion occurred while testing pipe in plant. In

2013-14, Toshiba JSW Private Limited had placed orders in 2013-14. The pipes provided by Toshiba J.S.W. Power System Private Limited were used by Meja Plant. The pipes in name of Vallourec purchased from other companies were also utilised at Meja Plant, which had resulted in explosion, hence, Toshiba sent MTC with company letter dated 18th January, 2017, who sent to NTPC informing that the explosion is not caused by pipes provided by Vallourec to Toshiba. NTPC informed the complainant that the seamless steel pipes used at Meja plant were provided by Toshiba JSW Power System Pvt. Ltd., and enquiry in that regard is in progress. Vallourec called upon Toshiba vide letter dated 17th January, 2017, to disclose the source of purchase of seamless pipe installed with NTPC Company plant were provided by Reliance Pipes and Tubes Pvt. Ltd. and MTC was given by them. It was also revealed that the director of said company is Manoj Sanghavi. Vallourec informed Toshiba vide E-mail dated 13th March, 2017 that Vallourec had engaged Grieves Protection Management Pvt. Ltd. to enquire into incident of explosion, and they shall cooperate. Toshiba called for purchase order, invoices and other documents regarding purchase of seamless pipes used in Meja plant from Reliant Pipes Pvt.Ltd., but they did not co-operate. By letter dated 10th April, 2017, Toshiba intimated

Vallourec that they had purchased 428.62 meter pipes for Meja plant from Reliant Pipes and Tubes Pvt. Ltd., and, half the pipes were utilised in Meja plant unit - 1, and, the remaining pipes were fabricated and kept ready for using in Unit - 2. In the even the pipes purchased from Reliant Company are utilised there is likelihood of explosion and likelihood of danger to human life. Inspite of said knowledge, Toshiba for verification of Vallourec is prepared by Manoj Sanghavi. Hence, Vallource has filed Notice of Motion No.1943 of 2018 in IDR Commercial Suit No.1098 of 2018. The complaint was lodged against M/s.Osho Tubes and Pipes, M/s.Reliant Pipes and Tubes Pvt. Ltd., and M/s.Toshiba T.S.W. Power system Pvt. Ltd.

3 Learned counsel for the applicant has submitted that the dispute is in relation to the Trade Mark and the applicant is in custody from 4th September, 2018. Presently, he is in judicial custody and further detention of the applicant is not necessary. It is submitted that after his arrest, he was produced before the concerned Court for remand and initially police custody was granted, and, thereafter, the Court was pleased to the applicant to judicial custody. It is submitted that merely on the basis of inferences, the applicant cannot be subjected to custody.

Investigation does not reveal that applicant has supplied seamless pipes to Toshiba which blasted at Meja power plant. FIR is mainly against Toshiba which had installed pipes at Meja Power Plant. Prosecution is relying upon the statement. There is no cogent evidence showing involvement of the applicant in the said crime. FIR was registered after the suit was filed by the complainant company and in pursuant to the directions issued by this Court in the suit filed by the complainant, the applicant was directed to appear before the Court and he had complied the said directions, and, subsequently to co-operate with the investigation. He had presented himself before the investigation officer and when he had attended the police station with a view to co-operate, he was arrested on 4th September, 2018. It is submitted that although FIR indicate the involvement of M/s.Toshiba JSW Power System Pvt. Ltd., no action has been initiated against them and the person concerned with the said company are not arrested by the police. Applicant is being made scapegoat by arresting him although he had tried to co-operate with the investigation. It is submitted that similar FIR was lodged against another company, wherein the investigation has commenced. It is submitted that there is no evidence that the disputed pipes were supplied by the applicant or that the certificate, which is allegedly forged, was

forwarded by the applicant. It is submitted that the suit is pending before this Court. It is submitted that the applicant has co-operated with the investigation and further detention is not necessary. It is further submitted that the Division Bench of this Court had passed order dated 14th September, 2018, which clearly states that that no further steps be initiated in respect to the orders of the Court. It is submitted that the applicant has impugned orders of Single Judge of this Court in Commercial Appeal (L) No.428 of 2018. It is submitted that in view of the order passed by the Division Bench of this Court, no coercive steps should have been taken by the police and the applicant should not have been arrested after registration of FIR on 31st August, 2018. Mere suspicion, cannot take place of evidence. Civil Court does not have power to direct police to investigate offence. Only on the basis of the imagination, the applicant cannot be subjected to prolonged detention. He is in custody from date of arrest.

4 Learned APP submitted that the offence is of serious nature. The FIR attributes specific overtact to the applicant. During the course of investigation, the investigating authorities have collected sufficient evidence to show the involvement of the applicant. The investigation reveals that the applicant is a person

who is involved in forwarding the forged Mill Test Certificate. The evidence indicate that the applicant has actively participated in the crime. The statements of witnesses show the involvement of the applicant. It is further submitted that the applicant's contention that he is dealing with Osho Tubes and Pipes Limited. However, during the course of investigation, statements of the concerned person with the said company was recorded, and, he has stated that the said company was closed several years ago. It is, therefore, submitted that there is strong evidence to connect the applicant with the said crime. It is submitted that the investigation is in progress and in the event the applicant is granted bail, there is every likelihood that he would tamper with the evidence. It is submitted that the application preferred by the applicant before the Sessions Court had been rejected by the Court by assigning cogent reasons, and, hence, case for grant of bail is not made out. Learned counsel for the intervener also reiterated the submissions advanced by the learned APP and submitted that the involvement of the applicant is implicit from the record. The applicant had purchased the pipes from Bhushan Steels. The accused latter on after cutting those pipes made it as seamless pipes and supplied to Toshiba by moulding and cutting those pipes. Toshiba a project of NTPC Meja (UP). The applicant

accused issued false MTC Certificate in the name of Osha Tubes. However, the said concern is closed down in 2002, and, stopped selling Vallourec pipes. The certificate was issued in 2014. Vallourec is supplying high quality pipes which has been used in natural Gas industries and other sensitive projects. The accused supplied bogus steel pipes. Counsel for intervener also relied upon the decisions of the Supreme Court of India in the case of ***State of Maharashtra & Another Vs. Sayyed Hassaan Sayyed Subhan & Ors.***¹

5 Learned counsel for the applicant had relied upon following decisions:

- 1) *Mustan Patel Vs. State of West Bengal & Ors.***²;
- 2) *Sayed Kaleem Vs. M/s.Mysore Lakshmi Beedi Works***³;
- 3) *Raj Kapoor Vs. Laxman***⁴

6 I have perused the documents on record. The FIR discloses that the applicant had supplied pipes to Toshiba. It is prosecution case that MTC Certificate was submitted by the applicant. Learned Sessions Judge has rejected application for bail on the ground that considering the material involving the

1 Criminal Appeal No.1195 of 2018, delivered on 20.9.2018

2 2002 SCC OnLine Cal 8

3 1992 SCC OnLine Kar 207

4 (1980) 2 SCC 175

applicant, and more particularly, considering the fact that investigation is still going on, bail cannot be granted to the applicant. I have considered the submissions advanced by both the parties and the decisions relied upon by the accused. The order passed by the Division Bench of this Court states that no steps in furtherance of the impugned order should be taken until further orders. The order do not indicate that investigation is stayed or that the police shall not proceed with the registration of the FIR or conducting the investigation. It is also noted that the applicant had not approached the Court seeking any relief in the light of the said order or seeking clarification of order. FIR has been registered on 31st August, 2018, and, subsequently, the applicant was arrested, and, remanded to custody. Investigation is in progress. The prosecution case is that applicant had supplied pipes to Toshiba with MTC. The Certificate is allegedly issued by Osho Tubes and Pipes. The evidence indicate that Osho tubes and pipes has stopped supplying pipes of Vallourec company. The MTC was issued in 2014. the same was not issued by Vallourec. Considering the fact that the investigation is in progress, at this stage, I do not find that case for grant of bail is made out and application is required to be rejected.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2586 of 2018, is rejected;
- (ii) Applicant will be at liberty to prefer a fresh application for bail after the charge - sheet is filed against the applicant. In the event, applicant prefers application for bail, in pursuant to the filing of the charge - sheet, the said application shall be decided by the appropriate Court on its own merits without being influenced by this order.

(PRAKASH D. NAIK, J.)