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

BAIL APPLICATION NO.2755 OF 2017

Sunil Ramesh Shitap

..Applicant

Vs

1]The State of Maharashtra

2]Lalchand Jesaram Ramchandani

..Respondents

WITH

CRIMINAL APPLICATION NO. 568 OF 2018

IN

BAIL APPLICATION NO.2755 OF 2017

Sunil Ramesh Shitap

..Applicant

Vs.

Vs

The State of Maharashtra

..Respondent

WITH

BAIL APPLICATION NO. 7 OF 2018

Ranjit Mohan Angale

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Amit Desai, Senior Advocate a/w Sharif Shaikh a/w Sajid Qureshi I/b Mateen Abdul Rahim Shaikh for applicant in B.A. No.2755 of 2017 and APPP No. 568 of 2018.

Mr. A.P. Mundargi, Senior Advocate a/w Mr. Hrishikesh Mundargi i/b Subir Sarkar for applicant in B.A. No. 7 of 2018.

Mr. Sujay Kantawala, Kaustubh Gupte, Kartik Kig, Khorzan Irani, Pritesh Oak I/b Ashish Mehta for respondent No.2 in B.A. No.2755 of 2017.

Mr. Ameet Palkar,APP for the State.

CORAM : A.S.GADKARI, J.
Order reserved on : 9th July 2018.
Order pronounced on: 26th July 2018.

P.C.:

1] These are applications under Section 439 of Cr. P.C for bail in CR No.283 of 2017 dated 25.7.2017 registered at Parksite Police Station, Mumbai under sections 304, 336, 308, 109, 201, 427 and 511 of the Indian Penal Code.

2] Heard Mr. Amit Desai, the learned Senior Counsel for the applicant in Bail Application No.2755 of 2017, Mr. Ashok Mundargi, the learned Senior Counsel for the applicant in Bail Application No.7 of 2018, Mr. Sujay Kantawala, the learned counsel for Intervener and Mr. Ameet Palkar, the learned APP for the State. Perused the entire record annexed to the applications and chargesheet.

3] The first information report is lodged by respondent No.2 Shri Lalchand J. Ramchandani on 25th July 2017. The prosecution case in brief is that, the applicant Mr. Sunil Shitap was the owner of three flats on the ground floor and one flat on the first floor of Siddhi Sai CHS Building at Ghatkopar, Mumbai. That the structural audit of the said building was

carried out by the residents of the said building. It was intimated to them that, the said building requires substantial repairs. Despite the said fact, the applicant Mr. Sunil Shitap without appointing a qualified Architect and/or Engineer entrusted the contract of renovation of his ground floor premises to the applicant Mr. Ranjit Angale who is not admittedly a qualified Architect and/or Engineer and demolished the internal walls and pillars of the said building for making one open hall on the ground floor. The said applicant Mr. Sunil Shitap was aware of the fact that due to the said repair/renovation of the ground floor, the said building which was already in precarious condition may collapse, continued to do the work of demolition of internal pillars/walls on the ground floor of the building which ultimately caused collapse of the building on 25th July 2017 between 10.20 a.m to 10.30 a.m. That the applicants with knowledge that the repair/renovation of the said ground floor may cause damage and/or collapse of the building thereby causing loss of life of people, continued with the said work deliberately and ultimately caused death of seventeen persons and serious to grievous injuries to fourteen persons. During the course of investigation, the applicants came to be arrested on 25th July 2017 and 29th July 2017 respectively. After completion of investigation, the

police have submitted chargesheet.

4] Mr. Desai, the learned Senior Counsel appearing for the applicant Mr. Sunil Shitap submitted that, in the report submitted by the Enquiry Committee on the collapse of Siddhi Sai building, the experts have mentioned that, the root cause and trigger point of collapse as, indiscriminate removal of walls in the structure at the ground level and inadequate non-scientific propping carried out by a non-competent technical supervisor to the structure while repairing the RCC members. That the trigger point of collapse i.e. column No. C 11 is a free internal column and removal of the same with column NO. C 10 which was allegedly damaged for making free hall to the occupant applicant Mr. Sunil Shitap. In the said report, in the conclusions drawn by the Expert Committee, it is specifically mentioned that, this is clear case of human error in the work of modifications that were being carried out at the ground level just prior to collapse where adequate precautions were not taken to ensure the stability of the building while modifying the same. He therefore submitted that, it is due to the error of the workers employed by co-accused Shri Ranjit Angale at the said site. He submitted that, he had given work of renovation for making a open hall/hospital therein to co-

accused Shri Ranjit Angale and it is his workers who ultimately caused damage beyond control which led to collapse of a building. He submitted that, therefore the knowledge cannot be attributed to the applicant for work of labourers at site whose action ultimately resulted into collapse of building. He further submitted that, for tenantable repairs no permission from Mumbai Municipal Corporation is necessary under section 342 of Mumbai Municipal Corporation Act. He submitted that in the year 2009 the Corporation had granted permission to the applicant Mr. Sunil Shitap for amalgamation of the said three residential units belonging to applicant Mr. Sunil Shitap situated on the ground floor of the Siddhi Sai CHS building and thereafter Doctor Smt.Khade was running a nursing home upto March 2017. He submitted that, the applicant Mr. Sunil Shitap cannot be held vicariously liable for acts of labourers. In rejoinder to the argument advanced by the learned APP, he submitted that for strengthening the pillars on the ground floor, concrete thereon was removed as it was corroded. It is not the case of the prosecution that, the internal columns were to be demolished or demolished by the applicant. As the applicant being the owner of the said ground floor was interested in converting it into hospital, therefore, it cannot be said that he did the said act with

knowledge to cause death of the residents of the said building and therefore Section 304(II) of the Indian Penal Code cannot be made applicable to the present crime. He reiterated that, it is due to human error of the workers who were employed by the applicant Mr. Ranjit Angale for renovation, the said building has collapsed and it is not the fault of the applicant Mr. Sunil Shitap. In support of his contention, Shri Desai relied on the following decisions:-

- (i) Ravi Surajmal Bhandari Vs. The State of Maharashtra
Order dated 16th May 2018 passed by this Court in Bail
Application No.995 of 2018 with Bail Application
No.997 of 2018.
- (ii) Abdul Salim Shaikh (Siddique) & Anr. Vs. The State of
Maharashtra reported in 2014 ALL MR (Cri) 4381.
- (iii) Yug s/o Ravindrapal Singh Tuli & Ors. Vs. State
Order dated 27th April 2018 passed by this Court in Bail
Application No.931 of 2018.
- (iv) Chhagan C. Bhujbal Vs. Asstt. Director of E.D.
Order dated 4th May 2018 passed by this Court in
Bail Application No.248 of 2018.

(v) Dataram Singh Vs. State of Uttar Pradesh & Anr
reported in (2018) 3 SCC 22.

He lastly submitted that, the investigation of the present crime is completed and the police have submitted chargesheet and therefore the applicant may be released on bail.

5] Mr. Mundargi, the learned Senior Counsel appearing for the applicant Mr. Ranjit Angale submitted that, the applicant is not a qualified Architect and was appointed as an Interior Designer by the applicant Mr. Sunil Shitap for internal decoration of work for his 'Shitap Hospital Project' at Siddhi Sai CHS building, Ghatkopar (West). He submitted that, applicants Mr. Sunil Shitap and Mr. Ranjit Angale did not remove pillars of the said building. That the structural audit report submitted by the Expert appointed by the residents of the building clearly mentions that, the said building was in dire need of major repairs and therefore the residents of the building were aware of the fact that the said building was requiring extensive repair. He submitted that, witnesses even have stated that prior to collapse of the said building, applicant Mr. Sunil Shitap had been to the said site and till that time nothing had happened and therefore it cannot be said that the applicants were having knowledge of probable collapse of the

building which might result into the loss of human lives. He therefore submitted that, the offence as contemplated under section 304(II) of the Indian Penal Code as against the applicant Mr. Ranjit Angale has not been made out by the prosecution. He in rejoinder to the arguments advanced by the learned APP submitted that, in the year 2009 itself the internal walls of the said three premises were removed after taking proper permission from the Corporation and they were amalgamated. In July 2017 repairing of pillars was undertaken for strengthening them and therefore the plaster over the said pillars was removed. He lastly submitted that, it may at the most be termed as negligence of the applicant in his duty as an Interior Decorator and no intention and/or knowledge can be attributed to him about the probable collapse of building. He therefore submitted that, there is no question of an offence as alleged against the applicant Mr. Ranjit Angale as contemplated under Section 304(II) of the Indian Penal Code in the present crime. He therefore submitted that applicant Mr. Ranjit Angale may be released on bail by imposing even stringent conditions.

6] Mr. Kantawala, the learned Counsel appearing for the respondent No.2/first informant submitted that, the submissions made by the applicants in their applications are contrary to the statements/evidence

of the workers. He submitted that, the applicant Mr. Ranjit Angale is not an Architect and is only an Interior Decorator. He submitted that, the statements of witnesses points out that, the applicant Mr. Sunil Shitap indulged into demolishing the internal pillars of the ground floor thereby causing loss of seventeen human-beings and caused serious to grievous injuries to fourteen residents of the said building. He further submitted that, in the Enquiry Report, the experts have categorically observed in paragraph No.6.3.1 that the residents of the building did not complain about alteration work either to the police or to the Corporation as the applicant Mr. Sunil Shitap had threatened them about the same. He submitted that the applicant Mr. Sunil Shitap is a highly influential and politically well connected person. That in the Enquiry Committee's Report in paragraph No.6.5 (b), the experts have observed that, any prudent person who took up such massive modification repair work to an old structure would appoint a structural consultant and not merely an architect/Interior Designer who does not generally have either the requisite qualification or the training or experience. He submitted that, the casual manner in which the applicant Mr. Sunil Shitap had carried out the alleged repair of the ground floor of the building and has proceeded to demolish

some of the pillars, exhibits his knowledge about probable disaster and therefore the application of section 304(II) of the Indian Penal Code to the present crime is correct and proper. He submitted that, after the collapse of the building, the residents who are alive have lost everything in their life are residing in a transit camp. He therefore prayed that both applications may be rejected.

7] The learned APP in opposition to the applications took me through the voluminous evidence on record, showing the complicity of both the applicants in the present crime and attributing knowledge to them about the probable collapse of the building 'Siddhi Sai'. He submitted that, the applicant Mr. Sunil Shitap is a highly influential person and may tamper with the evidence and/or pressurise the witnesses, if released on bail. He submitted that, the Enquiry Committee Report also mentions applicants highhandedness. He therefore prayed that both applications may be dismissed.

8] The material in the form of statements of the witness mentions that, the said structure of Siddhi Sai building was requiring extensive repairs as the structure of the building was not stable. The applicant Mr. Sunil Shitap had also independently carried out structural

audit of the said building. In the said report also extensive repair work to the said building was recommended. Despite the said fact, the applicant Mr. Sunil Shitap with the help of applicant Mr. Ranjit Angale indulged into carrying out repairs thereby creating an open hall on the ground floor in the said building. The applicant Mr. Ranjit Angale is neither a qualified Architect nor an Engineer. However, he has prepared a plan which is annexed at page No.482 of the Bail Application No.2755 of 2017 for expansion of the ground floor structure into one open hall. The statement of the witness namely Smt. Riddhi Khanchandani clearly mentions that, she had observed in the month of July 2017 that the applicant Mr. Sunil Shitap had demolished the internal walls and the pillar erected in the central portion therein and had created one open hall. She has further stated that, she discussed the said issue with the residents of the building and decided to oppose applicant Mr. Sunil Shitap for the same, however, due to the political influence and terror of the applicant Mr. Sunil Shitap, the residents of the building could not do it and the applicant Mr. Sunil Shitap continued to carry out demolition work in the said premises. The other witnesses who were the residents of the said building duly corroborate the version of the said witness Smt. Riddhi Khanchandani.

The evidence further indicates that, the applicant Mr. Ranjit Angale had also prepared a plan of proposed Shitap Hospital and started the work of demolition and/or renovation of the said premises through his workers. The record clearly indicates that, no experienced Architect or Engineer or Consultant was appointed before undertaking the said demolition work by the applicants. That the applicant did not take necessary and proper permission from the Mumbai Municipal Corporation for carrying out the said extensive repair work. The pillars on the ground floor of the building were chiselled to such an extent that the steel therein was exposed tending the pillars to become weak which ultimately lead to buckling/crushing of column Nos.C-1, C-2, C-3 and C-10 or C-11. The record further indicates that, the applicants instead of using conservative method for repairing of the pillars of the ground floor, used electric drilling machine/hammer which caused tremendous vibration thereby leading it to further weakening of the structure of the building. It appears from the record that, the applicant Mr. Sunil Shitap being the owner of the ground floor and the applicant Mr. Ranjit Angale being the Interior Decorator of the said project, did not take proper care despite the knowledge of the fact that the said building was in a dilapidated condition and/or was requiring

extensive structural repairs, proceeded to demolish the internal walls and/or the pillars of the ground floor. It is the said act of omission and/or commission of the applicants which has resulted into death of seventeen innocent persons and had caused serious to grievous injuries to fourteen persons who were occupants of the said building.

9] It is the settled position of law that, there is a presumption that a man knows the natural and likely consequences of his acts. Moreover, an act does not become involuntary act simply because its consequences were unforeseen. Knowledge is awareness on the part of the person concerned of the consequences of his act of omission or commission indicating his state of mind. There may be knowledge of likely consequences without any intention. Criminal culpability is determined by referring to what a person with reasonable prudence would have known. Reliance is placed on the decision of the Supreme Court in the case of *Alister Anthony Pareira Vs. State of Maharashtra*, reported in (2012) 2 SCC 648.

10] It cannot be lost sight of the fact that, in the present case 17 human beings have lost their lives and 14 persons have suffered serious to grievous injuries and therefore the applicant Mr. Sunil Shitap being the owner of the said ground floor of the building and the applicant Mr. Ranjit

Angale being the Interior Decorator of the said project, cannot be permitted to shrug off their responsibility, by adopting a specious plea that, they are not concerned with the entire incident and it caused due to human error of the labourers which were employed/appointed by the applicant Mr. Ranjit Angale. Ultimately, it is a matter of public accountability and therefore, the accusations are to be considered much of grave and serious nature especially on the background of the causality taken place.

11] After taking into consideration the material available on record, it clearly indicates and leads to draw an irresistible inference that, the applicants had implied knowledge that, there was every probability that the collapse of the said building may occur or take place due to the said unauthorised or illegal renovation and/or repairs of ground floor walls and/or pillars by the applicant Mr. Sunil Shitap under the guidance of applicant Mr. Ranjit Angale and their act of demolition of the internal walls and chiselling of the concrete from the pillars would likely to cause buckling/crushing of the main structure of the said building and would likely to cause death of the residents therein and therefore, the prosecution has rightly applied section 304(II) of the Indian Penal Code to the present case.

12] As noted earlier, the applicant Mr. Sunil Shitap is a highly influential person and due to his political influence and terror spread by him in the locality, the residents of the said Siddhi Sai building did not even protest his repair/renovation work. The prosecution has expressed an apprehension that, if he is released on bail, he may tamper with the evidence and/or pressurise the witnesses.

13] After taking into consideration the material available on record showing the clear complicity of both the applicants in the present crime, serious allegations against them and the gravity of the offence, this Court is of the considered view that the applicants do not deserve to be released on bail.

14] Bail Application Nos.2755 of 2017 and 7 of 2018 are accordingly rejected.

15] In view of dismissal of both Bail Applications, Criminal Application No.568 of 2018 does not survive and the same is accordingly disposed off.

(A.S.GADKARI, J.)