IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) 479 OF 2018
(Samir s/o.Jagdish Prasad Agrawal..vs..State, thr PSO, PS Lakadganj, Nagpu)

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	*Court's or Judge's orders.*

Shri J.M. Gandhi, counsel for the applicant.
Shri N.H. Joshi, APP for State.

CORAM: ROHIT B. DEO, J.
DATE: 18th June, 2018.

Heard.

2 The applicant is seeking regular bail in Crime 131 of 2017 registered at Police Station Lakadganj, Nagpur for offence punishable under sections 420, 467, 468, 471 read with section 34 of the Indian Penal Code.

3 The offence is registered on the basis of a complaint lodged by one Laxmikant Devdatta Murarka on 11.12.2016 alleging that M/s. Suhasini Reality obtained bogus commencement certificate from Nagpur Municipal Corporation. The complainant, who has purchased one apartment from said concern claimed that since the commencement certificate is bogus, he is cheated.

4 The chargesheet is yet to be filed. However, at this stage, it does not appear to be any dispute that the Nagpur Municipal Corporation did indeed issue commencement certificate on 30.4.2012. A communication issued by the Assistant Director, Town Planning to the Investigating Officer is made available for my perusal. What is alleged is that the applicant prepared a document

purporting to be commencement certificate issued on 30.3.2012. This seems to have been done by the applicant to claim benefit under section 80(1)(B) of the Income Tax Act.

5 The affidavit in reply also alleges that to take the benefit under the Income Tax Act, the applicant changed the permit number and date of permit and back dated the same to 30.3.2012. It is not the case of the prosecution, at least in the affidavit in reply, that no permit was issued by the Municipal Corporation, Nagpur. Prima facie, it is difficult to appreciate the claim of the complainant that he is cheated. If at all, it is the Income Tax Department which is aggrieved, since even if the allegations are accepted at face value, the date is changed to avail benefit under the Income Tax Act. There is no reason why the applicant, against whom there are no criminal antecedents should languish in custody.

6 The application is allowed.

7 The applicant shall be released on furnishing personal bond of Rs. 15,000/- with a solvent surety of like amount.

8 The applicant shall report Police Station Lakadganj, Nagpur on Saturday once in a month between 10.00 a.m. to 12.00 p.m. till filing of the chargesheet.

9 The applicant shall not tamper with the evidence nor shall attempt to influence the witnesses in any manner.

JUDGE

RS Belkhede