IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE SIDE
CRIMINAL BAIL APPLICATION NO.498 OF 2017

Pawandeepsingh Mahendrasingh Kohli ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr.Aabad H.Ponda, advocate for the applicant
Mr.Pravin Chavan, Special Public Prosecutor for Respondent-State.

CORAM : NITIN W. SAMBRE, J.
Reserved on : January, 22, 2019.
Pronounced on : March, 29, 2019.

P.C.:

The applicant, a private businessman, is seeking regular bail in Crime No.336/15 registered with Dahisar Police Station, for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 384, 120-B, 201, read with Section 34 of the Indian Penal Code; and under Sections 7 and 13(1)(C)(D) of the Prevention of Corruption Act.

2 The applicant was arrested on February 16, 2016 and came to be charge sheeted pursuant to the offence registered on July 18, 2015.

3 The facts necessary for deciding the application are as under:

The then Chairman of *SahityaRatna Lokshahir Annabhau Sathe Vikas Mahamandal*, Mr.Ramesh Kadam, Ex-MLA, who is also an accused in the said offence, for setting up a centre for candidates from socially and economically backward section, who are desirous of appearing for MPSC examination, allegedly purchased piece of land at Aurangabad, which is owned by the present applicant. As against lawful consideration for the same, the applicant appears to have received exorbitant consideration by showing inflated price of the land.

4 It is alleged by the prosecution that one Mr.Santosh Ingle, a co-accused, who was very senior officer of the said Corporation, in connivance with the Chairman of the Corporation i.e. co-accused Mr.Ramesh Kadam, Ex-MLA, caused defalcation which runs into crores of Rupees. Amongst other, the Head, under which the public funds of the Corporation meant for providing job opportunities, financial assistance, etc. to the candidates from social and financial backward categories, were misappropriated.

(A)	Purchase of Computers worth Rs.2.5 crores;	Co-accused no.10 – Supplier came to have deposited amount of Rs.3.15 crores and released on bail.
(B)	Purchase of plot for setting up Centre at Aurangabad; (Resolution No.77/2011 – Cost: Rs.11.40 Crores Part of the land was purchased in the name of co-accused Ramesh Kadam out of the funds.	Rs.3 Crores paid to co-accused no.11, namely Pawandeepsingh Mahendrasingh Kohli and Rs.3.10 crores to one Dhruv Pitti.
(C)	Sale of Plot at Nasik admeasuring 800 square meters in connivance of co-accused.	
(D)	Sanction of Rs.41.37 Crores to one	

	Joshaba Madhyawarti Sahayak Grahak Sanstha and disbursed in 4 instalments.	
(E)	Rs.45 Crores were sanctioned and disbursed in favour of weaving mill.	
(F)	Purchase of residential flat in the name of Corporation for Rs.1,89,70,000/-.	
(G)	Illegal appointments of 19 candidates;	
(H)	Misappropriation of Rs.34 Crores by the applicant;	

5 It is alleged that applicant Pawandeepsingh Kohli is one of the beneficiaries of the illegal amount. It is the prosecution case that co-accused Pawandeepsingh Kohli, a private businessman, who was the owner of a SUV four-wheeler, and party to the conspiracy, appears to be illegally benefitted out of the disbursement made by the applicant. The said vehicle was seized from the custody of co-accused Santosh Ingle and decisions taken by said Santosh Ingle of disbursement of amount in favour of Pawandeepsingh Kohili and other co-accused including Chairman, in voluminous terms, speaks of the conspiracy, exceeding financial limits, disbursement of amount without following due procedure, thereby causing huge financial loss to the public exchequer.

6 In the aforesaid background, while trying to make out a case for grant of bail, learned Counsel for the applicant, Shri Ponda, would strenuously urge that till date from 2016 onwards, almost six charge sheets have been filed against various accused persons. According to him, it could be inferred that investigation in the matter is almost over. He would then urge that the allegations in the charge sheet against the applicant, if

appreciated, it is clear that neither there is recovery of alleged misappropriated amount nor the amount was usurped by the applicant for personal gain. That being so, he submits that the applicant is entitled to be released on bail.

7 Shri Ponda, advocate, would draw support from various judgments of the Apex Court so as to submit that further custodial detention of the applicant is not required. According to him, considering the maximum punishment provided, the applicant is entitled to be released on bail. He would place reliance upon the judgment of the Apex Court in the matter of **Sanjay Chandra Vs. CBI**, reported in 2011 DGLS (SC) 935 = (2012 AIR SC 830); so also other similar decisions. He would also claim that the trial is not likely to be concluded in recent future and that being so, the benefit of regular bail needs to be extended to the applicant. The learned Counsel then would urge that of the total accused persons, almost 90% are already released on bail and that being so, the applicant is entitled to be released on bail.

8 *Per contra,* the learned Special Public Prosecutor would strenuously oppose grant of bail and submits that the the applicant is party to the conspiracy hatched by the co-accused and is financially benefitted to a great extent because of illegal decisions of releasing the amount by co-accused. He would rely upon the investigation material to that effect on record. He has also relied upon the statements of witnesses and the investigation carried out till date so as to infer *prima facie* involvement of the applicant in the crime.

9 Having appreciated the submissions, what is noticed is in the transaction of sale of land at Nasik, which was allotted by the MIDC to the Corporation and which, in turn, was transferred in favour of Vision Tech Enterprises, the applicant appears is a financial beneficiary though he has neither lawful stake in the deal nor he is owner of the same.

10 Apart from above, the applicant has provided his own SUV 4-Wheeler to the officials of Corporation without execution of any contract, in voluminous terms, speak of *prima facie* involvement of the applicant in the illegally drawn funds from the Corporation and to take undue favour.

11 Apart from above, in the matter of purchase of land at Aurangabad for setting up guidance centre, amount in crores of rupees came to be transferred to the account of the applicant, though the facts remains that the cost of the land appears to have been inflated at much higher rate.

12 Having considered the rival contentions, what is required to be noticed is, the investigation in the matter is still going on. The offence in question is based upon the mis-appropriation of amount of public Corporation, which was meant for candidates belonging to economically and socially weaker sections. As such, the offence can be termed as an economic one. The applicant, *prima facie*, appears to be beneficiary of the amount defalcated by the accused persons in connivance with each other.

13 Apart from above, the economical offences need to be categorised altogether differently and are of exceptional class. Such matters particularly relating to prosecution and bail applications are required to be decided with different approach than the regular bail matters. The reason being, of causing financial and economical loss to the public exchequer are based upon deep rooted conspiracies and as such needs to be viewed seriously. Because of the act of the applicant, the entire financial structure of the Corporation has reached to lowest pedestal resulting into causing a serious threat to the financial health of the said Corporation. In this respect, appropriate support can be drawn from the judgment of the Apex Court, in the matter of **Nimmagadda Prasad Vs. Central Bureau of Investigation**, reported in (2013) 7 SCC 466, para 25.

14 Apart from above, if the applicant is released in a serious economical offence like the one, there is every likelihood that the applicant may tamper with the investigation; and it is in the interest of the community/society at large to continue the applicant in detention during pendency of the prosecution. A support, to that effect, can be drawn from the judgment of the Apex Court in the matter of **Masroor Vs. State of Uttar Pradesh & another**, reported in 2009 (14) SCC 286.

15 Apart from above, considering the facts and circumstances of the case in question, role attributed to the applicant in the commission of crime, *prima facie* material available to that effect in support thereof on record, it is contemplated that in the public interest, the applicant should

continue to be in the custody. That being so, there is no case made out for grant of bail.

16 Application fails and stands rejected.

[NITIN W. SAMBRE, J.]

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