

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

CRIMINAL BAIL APPLICATION NO.824 OF 2019

Rishikesh Rajendra Deshmukh

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Umesh Mankapure, Advocate for Applicant.
- Mr. Prashant Jadhav, APP for the State/Respondent.
- Mr. Suresh Bendre, PI, EOW, Pune present.

CORAM : SARANG V. KOTWAL, J.

DATE : 8th AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.140/2018 registered at Chaturshrungi Police Station, Pune City, under Sections 120-B, 419, 420, 465, 467, 468, 471 and 474 r/w. 34 of IPC.

2. The first information report is lodged by one Prasad Balwadkar. His statement is treated as FIR on 28/3/2019. He has

stated in his FIR that his family was owning a ancestral property at Balewadi bearing survey No.28/1 admeasuring 3 hector 69.29 R. Out of that land, 1 hector and 4 R is belonging to his family. 2700 sq. meter land was to be acquired for the purpose of construction of national highway No.4 for which the proposed compensation was Rs.4,35,24,331/-. The applicant's family received a notice to that effect in the year 2015. In March 2017, the applicant came in contact with Sarjerao Mohite, Vikas Patil and Mansingh Shinde. The first informant was already knowing the present applicant. Through the discussion with these persons, the informant was told that Sarjerao Mohite was posted at Navi Mumbai as Additional Collector. The Special Land Acquisition Officer Amrut Natekar was his good friend. He suggested that he could meet Shri. Natekar for his work. On 1/4/2017, the informant had a meeting in the house of present applicant at Baner with aforementioned persons. They suggested that if he was willing to spend money, his work could be done by Shri. Natekar. On 2/4/2017, the informant met Natekar, Vikas Patil, Mansingh Shinde and the present applicant. The informant told Natekar that his land admeasuring

61 R was already acquired in the year 1973 and therefore, his land to that extent should be excluded from acquisition in the year 2015. The FIR thereafter mentions that applicant and others including present applicant had obtained various amounts for themselves and Shri. Natekar from the informant. In all, Rs.53 Lakhs were obtained from him. It is alleged that to distribute the compensation amount accused obtained Rs.53 Lakhs from him purported for issuing orders in that behalf. The orders were to be issued by Special Acquisition Officer Amrut Natekar. According to the informant, proper orders were not passed and his amount was misappropriated. After the FIR was lodged, the investigation was carried out. The applicant was arrested on 29/3/2018 and since then, he is in custody. The investigation is carried out and the chargesheet is now filed.

3. Heard Mr. Umesh Mankapure, Ld. Counsel for the Applicant and Mr. Jadhav, Ld. APP for the State.

4. He invited my attention to the complaint filed by the first informant before the Police Commissioner Pune on January 2018 wherein he has given more details in respect of these transaction. This complaint is also part of the chargesheet. It is mentioned in that complaint that in April 2017, he had seen an order passed by the SLAO wherein the land admeasuring 200 sq. meter was not excluded from the informant's land admeasuring 1 hector 4 R. Thus, he was convinced that the promised job was not done by Shri. Natekar. The informant wanted Natekar to take into account earlier acquisition in 1973 and to exclude that piece of land from the total acquired land in the year 2015. However, that was not done. Therefore, again he contacted Shri. Natekar. At that time, Shri. Natekar promised him to pass proper order subsequently. The informant was shown a letter in January 2018 which was mentioning that the mutation entry carried out pursuant to the order dated 26/4/2017 should be cancelled and fresh entries should be taken. This order purportedly was in favour of the first informant, on 25/5/2017.

5. The first informant took a photograph of this order and subsequently found that particular order dated 25/5/2017 was a forged order and the order dated 26/4/2017 which was a genuine order was still effective and in operation. Thus, he was convinced that he was cheated for the amount which was taken by the accused.

6. Ld. Counsel for the applicant Shri. Mankapure submitted that even as per prosecution case the promise was given by Shri. Natekar who was SLAO. It was within his authority to pass those orders. But he has cheated the complainant. The prosecuting agency has not even arrested him though he was still working at Satara on the post of Resident Additional District Collector. He submitted that even as per allegations the amount taken by the present applicant and others was accepted on his behalf. There is nothing to show in the entire chargesheet that the applicant himself in any manner was connected with creating the forged document i.e. order dated 25/5/2017. Shri. Mankapure also relied on the order passed by this Court (Coram : A. S.

Gadkari, J.) in Bail Application No.2752/2018 and 2281/2018 dated 18/12/2018 and 22/12/2018 respectively wherein the co-accused Balasaheb Chavan and Vikas Patil were granted bail. He submitted that Balasaheb Chavan had a major role to play because as per the statement of stenographer of Shri. Natekar, the purported forged order was prepared at the instance of accused Balasaheb Chavan. The applicant had no role to play in that. The other accused Vikas Patil's case stands on the same footing as that of the present applicant. The said applicant Vikas Patil had deposited Rs.25,000/- in the registry of the Trial Court. That was the amount which he was supposed to have taken from the informant. He submitted that the same principles can be applied in favour of the present applicant and on the ground of parity this applicant can be released on bail.

7. As against these submission, Shri. Jadhav, Ld. APP submitted that the present applicant is one of the main offenders and therefore bail should not be granted to him. He pointed out that the applicant has received Rs.4 Lakhs through RTGS and if the

same benefit granted to Vikas Patil is to be extended to this applicant, then he should be directed to deposit the same amount Rs.4 Lakhs before the Trial Court.

8. I have considered these submission. The chargesheet does indicate that the purported order was obtained at the instance of Balasaheb Chavan and at every meeting the applicant was accompanied by other accused and the main promise was given by Natekar to the first informant. Therefore, applicant's role cannot be separated from the roles of other accused who were granted bail i.e. Balasaheb Chavan and Vikas Patil. Shri. Mankapure submitted that Rajendra Deshmukh and Sarjerao Mohite who have played the same role were already on bail pursuant to orders passed by the Sessions Court. Co-accused Rajendra Deshmukh was granted anticipatory bail. Thus, as on today all the accused who have played similar role and whose roles are more serious are already granted bail. In this view of the matter, the same benefit can be extended to the present applicant on similar conditions. Shri. Mankapure, Ld. Counsel for the

applicant has showed his willingness on behalf of the applicant to deposit Rs.4 Lakhs before the registry of the Trial Court. His statement is accepted. Considering all these aspects, I am inclined to grant bail to the present applicant. Hence, the following order.

ORDER

- (i) The applicant shall deposit amount of Rs.4 Lakhs in the registry of the Trial Court.
- (ii) On such deposit, in connection with C.R. 140/2018 registered at Chaturshrungi Police Station, Pune City, the applicant is directed to be released on bail on his executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount.
- (iii) The Trial Court shall take decision in respect of distribution of that amount which is deposited by the applicant at the conclusion of the trial.
- (iv) The amount deposited by the applicant in the Trial Court shall be deposited in Fixed Deposit which shall be renewed from time to time.

- (v) The applicant shall report the office of EOW, Pune on first Monday of every month between 5.00 p.m. to 7.00 p.m.
- (vi) The application is accordingly disposed of.

(SARANG V. KOTWAL, J.)