

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 843 OF 2019**

Praveen Awadhnath Singh

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

Mr. M.S. Mohite I/by Mr. S.R. Phanse for the Applicant.

Ms. J.S. Lohokare APP, for the Respondent-State.

Mr. Bhushan M. Dayana, API/ MFC P.S. Kalyan, Thane City.

CORAM : A. S. GADKARI, J.

DATE : 2nd MAY, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. I-240 of 2018 dated 5th June, 2018, registered with Mahatma Phule Chowk Police Station, Kalyan District Thane under Sections 306 and 420 read with Section 34 of the Indian Penal Code.

2 Heard Mr. Mohite, the learned counsel for the Applicant and the learned APP. Perused the entire charge-sheet.

3 The prosecution case in nutshell is that, the Applicant along with co-accused Sanjay Ghosh represented the deceased Asif

Zojwala that they are in position to give him the post of Chairmanship of CIDCO, Maharashtra and induced him to part with an amount of Rs.7 crores. That, despite making payment of huge amount, the Applicant neither gave the assured post of chairmanship of CIDCO, nor returned that amount to the deceased. That, whenever the deceased demanded the money back, the Applicant and co-accused dodged the deceased by giving evasive replies. It is the further prosecution case that, the Applicant and co-accused abated the suicide of Asif Zojwala.

4 The record indicates that, initially an ADR No. 28 of 2018 under Section 174 of the Code of Criminal Procedure was registered. That, the suicide note was subsequently found in the glove box of the car of the deceased and after receipt of the said suicide note, the present crime under Section 306 of the Indian Penal Code has been registered.

During the course of investigation the Applicant came to be arrested on 9th June, 2018 and after completion of investigation, police have submitted charge-sheet.

5 Mr. Mohite, the learned counsel for the Applicant submitted that, the suicide note is a got up document. He submitted

that, the handwriting expert has not opined about the signature appearing on the said suicide note and simply given his opinion about the handwriting on the suicide note. He submitted that though the witness Parvez Hasan Diler (son-in-law of the deceased) had found the suicide note in the car 8 days after the date of alleged suicide, he produced the same before the police after a gap of about 2 months, which creates strong suspicion about its genuineness and bonafide in that behalf. He submitted that, the transcripts of the telephone conversation between the Applicant and the deceased would indicate that, the Applicant was not having any knowledge about the alleged promise extended by the co-accused Sanjay Ghosh of giving post of Chairmanship of the CIDCO to the deceased. He submitted that, the investigation of the present crime is already completed and police have submitted charge-sheet and therefore, the Applicant may be released on bail.

6 A perusal of record would indicate that, in the suicide note, the deceased has categorically attributed the reasons for driving him to commit suicide by the Applicant and co-accused Sanjay Ghosh. The deceased has categorically stated that, the Applicant and co-accused had promised him, the post of Chairmanship of CIDCO in the

year 2015 and had taken an amount of Rs.7 crores from him in that behalf. That, the accused persons have not done his work. The deceased has categorically written that, the Applicant and co-accused are responsible to drive him to commit suicide.

The handwriting expert i.e. the Assistant State Examiner of Documents, C.I.D., Maharashtra State, Pune in his opinion dated 13th December, 2018 has opined that, the enclosed writing in exhibits are written by the writer who had written the specimen writing submitted for its examination. It is thus, clear that the handwriting on the suicide note is of the deceased.

7 The allegations against the Applicant and the co-accused that, they assured deceased of giving the post of Chairmanship of CIDCO, Maharashtra and induced him to part with an amount of Rs.7 crores and subsequently defalcated the said amount and further abated the deceased to commit suicide is undoubtedly serious allegation.

8 By now, it is well settled position of law that, at the stage of grant of bail, detailed examination of evidence and reasoning, touching the merits of the case which may prejudice the accused should be avoided.

It is the further settled position of law that, at the time of consideration of an Application under Section 437 or 439 of the Code of Criminal Procedure, the relevant considerations for grant of bail, which have to be borne in mind are, the nature of accusation and severity of punishment in case of conviction; nature of supporting evidence and *prima facie* satisfaction of Court in support of charge leveled against the accused. A safe reliance is placed in the case of *Virupakshappa Gouda & Anr. Vs. State of Karnataka & Anr. (2017) 5 SCC 406*.

9 As noted earlier, *prima facie*, there is more than sufficient material available on record to show the clear complicity of the Applicant in the present crime and the allegations made against the Applicant are undoubtedly serious in nature.

In view of the above, this Court is of the considered view that, the Applicant does not deserve to be released on bail.

Application is accordingly rejected.

(A.S. GADKARI, J.)