

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

CRIMINAL BAIL APPLICATION NO. 1924 OF 2019

Mr. Narshya @ Narendra
Pandurang Mhatre

.... Applicant

Versus

The State of Maharashtra

.... Respondent

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- Mr. Sanjeev Kadam i/b. Sneha Bhange for Applicant.
 - Smt. A. A. Takalkar, APP for the State/Respondent.
 - Mr. Pradip Sawant, API, EOW-II, Navi Mumbai.
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CORAM :SARANG V. KOTWAL, J.
DATE :30th AUGUST, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. I 20/17 registered with Kalamboli Police Station, Panvel, under sections 420, 465, 467, 468, 471, 474 and 120-B of the Indian Penal Code. The applicant is arrested on 04/07/2017 and since then he is in custody.

2. The prosecution case, in short, is that the main accused Avinash Koli, Sanjay Koli and Sunil Mhatre entered into conspiracy

to develop the land which was not allotted by CIDCO to the land owner under the 12.5% scheme. The land was to be allotted to agriculturist Namdev Thakur, (since deceased). The land was yet to be allotted, even then the accused created forged documents in the nature of allotment letter, lease agreement, tripartite agreements and other documents. By using these documents they obtained permission to construct a building on plot No.47, Sector No.16, Roadpali, kalamboli. Thereafter they entered into development agreement with the developer. The building was actually constructed and the flats, as well as, shops were sold to the purchasers. Allotment letter shows the price of the land as Rs.3,03,09,375/-.

3. The allegations against the present applicant are that he had helped the main accused in creating forged documents and for that job he had obtained Rs.11 lakhs from the main accused Avinash Koli and Sanjay Koli.

4. Heard Shri. Sanjeev Kadam, learned counsel for the applicant and Smt. A. A. Takalkar, learned APP for the State.

5. Shri. kadam submitted that the accused Sanjay Koli

who was the main accused and had obtained benefit under this fraud is already released on bail vide order dated 27/03/2018 of this court in Criminal Bail Application No.247 of 2018 (Coram:P.N.Deshmukh, J.). The other accused Avinash Koli is released on bail by the learned Additional Sessions Judge vide order dated 08/01/2019 passed in Criminal Misc. Application No.1010/18. He, therefore, submitted that the present applicant also be released on bail who was not the main beneficiary under the alleged fraud. According to him, the allegations against him are of much lesser gravity. Learned APP opposed this application mainly on the ground that applicant has seven such previous offences registered against him. He submitted that without his help the forged documents could not have been created. He, therefore, opposed the grant of bail.

6. I have considered these submissions. The applicant is in custody since 04/07/2017 i.e. for more than two years. The investigation is over and charge-sheet is already filed. The main accused who were beneficiaries of the fraud are already granted bail, albeit, they were made to deposit certain amount. The present

applicant was given money for creating documents. There is a statement of one Dnyaneshwar Raga Koli recorded on 12/07/2017. He has stated that accused Avinash Koli and Sanjay Koli were known to him. Similarly, the applicant was known to him. Avinash, Sanjay and the applicant used to work for the 12.5% scheme at CIDCO. About 3 to 4 years prior to July 2017 the applicant and Avinash Koli came to him. This witness was working with CIDCO as a Telephone Technician. From this witness the applicant had obtained old letter heads and blank papers of CIDCO. Those letter heads and papers were used to create forged documents. At this stage, there is sufficient material against the present applicant, however, his involvement in the offence is lesser than the other accused who are granted bail. The allegations against the applicant are that he helped them in creating forged documents, however, he himself has not entered into any transaction and had not obtained money from the flat purchasers and shop owners. Though, there are seven antecedents against him, he is released on bail in those offences. Therefore, considering the fact that he is in custody for more than two years

and the trial is not likely to commence within reasonable time, and also considering the fact that other main accused are granted bail, I am inclined to grant him bail. However, considering his antecedents, restriction on his entry near CIDCO office has to be imposed.

7. Hence, the following order :

ORDER

- (i) In connection with C.R. No.I 20 of 2017 registered with Kalamboli Police Station, Panvel, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall not enter the jurisdiction of C.B.D. Belapur police station, Dist. Thane and Kalamboli Police station, Panvel, till conclusion of the trial.
- (iii) The applicant shall submit his residential address proof to the Investigating Officer.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)