IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2007 OF 2019

Mahesh Subhash Gate ….Applicant

V/s.

The State of Maharashtra ….Respondent

Mr. Gaurav Parkar, for the applicant.
Mr. H. J. Dedhia, APP for the Respondent- State.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th December, 2019

P.C.:

1. The applicant is arrested on 06th September 2018, in connection with C.R.No.663 of 2017, registered with Pimpri Police Station, Pune City, for offences punishable under Sections 420, 465, 467, 468, 471, r/w. 34 of the Indian Penal Code ('IPC' for short). First Information Report lodged on 24th November 2018.

2. The prosecution case is that the complainant had purchased flat bearing No.1003 for consideration of Rs.33,63,600/-. The agreement was executed in that regard on 21st August 2008. The possession was given to the complainant by Omega Promoters Co-operative Society which was registered on 5th March 2011. Share

Certifcate was issued in his favour. The complainant decided to sell the premises. The agent Chandankumar represented that, accused Ganesh Raskar is interested in buying the property. The accused was shown the flat. The consideration was determined to be Rs.75,00,000/-. Ganesh Raskar had given cheque of Rs.2,00,000/- as a part consideration. However, The transaction could not be finalized and the cheque issued by Ganesh had dishonored. Photo copies of documents of property were given to him. Subsequently, The complainant again decided to sell the premises. Complainant again decided to sell the premises to Mr. Pravinkumar Chaughule and his wife in March 2017. Agreement was executed on 23rd March 2017. The purchasers paid consideration to the complainant and the possession was handed over to them. Subsequently, it was noticed that, in the said premises the notice was pasted stating that, the premises was mortgaged with LIC for loan. It was revealed that Ganesh Raskar had prepared false documents with the other accused and loan was obtained. The complainant was impersonated. The complainant on examining the documents found that by preparing the false documents the loan was obtained from LIC. The co-accused Sunny, Tanaji also participated in preparation of false documents. It is further alleged that the applicant had opened account in the name of the complainant. The amount was deposited into account which was opened in the name of the applicant. On completing investigation, charge sheet was filed.

3. The learned Advocate for the applicant submitted that, all the other arrested accused were granted bail. The applicant continued to be in custody. The copies of the orders granting bail to the co-accused are annexed to the application. It is further submitted that the prime role was played by the Ganesh Raskar who is at liberty. Although, according to the prosecution the amount was credited in the account which was in the name of the applicant, there is nothing to show that the applicant had opened account. There is no evidence to show applicant had withdrawn amount. The amount was transferred to the other accounts. The persons concerned with the said account were not arrested.

4. Learned APP submitted that, the applicant had played a vital role in the fraudulent transaction. The applicant had impersonated the complainant. It is submitted that it is necessary to investigate who had opened the account and transferred the amount in the account which was in the name of the applicant.

5. The investigation is completed. The charge sheet is filed. The perusal of the First Information Report indicates that, the complainant was introduced to co-accused Ganesh Raskar who had

represented that he is interested in buying the premises. The Xerox Copies of the documents were handed over to him. The cheque issued by the Ganesh Raskar was dishonored. Subsequently, Raskar had obtained loan from LIC. The applicant had allegedly impersonated complainant. Ganesh Raskar has been granted bail. Two other persons Sunny , Ganesh, and Tanaji were also granted bail. The amount was credited into the account which was opened in the name of the applicant was subsequently transferred to the other account. The persons concerned with those accounts were not arrested. While granting bail to co-accused, it was observed that, he was in custody from 18th December 2017. The investigation is completed. The evidence is in the form of documents. The custody of this accused is not necessary as he was in custody for more than four months and it will take long time to decide the matter. It was also observed that, the case is triable by Judicial Magistrate First Class and there is no possibility of disposing of the case immediatly. The applicant is in custody from 18th December 2017.

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6. Considering the aforesaid circumstances, bail can be granted to the applicant.

ORDER

(i) Bail Application No.2007 of 2019 is allowed;

(ii) The applicant is directed to be released on bail in connection with C.R.No.663 of 2017, registered with Pimpri Police Station, Pune City, on furnishing P.R bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall report concerned police station once in a month on every first Saturday between 10:00 a.m. to 12:00 noon till further order.

(PRAKASH D. NAIK, J.)