

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

CRIMINAL BAIL APPLICATION NO. 1941 OF 2017

Mr. Zakir Hussain Siddiquie ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Sayaji D. Nangre a/w Suraj P. Nangare for Applicant.
Mr. Gharat, Special Public Prosecutor for Respondent – State.

CORAM : NITIN W. SAMBRE, J.
DATE : JANUARY 9, 2019.

P.C. :

. The Applicant was arrested on 30th August 2016 in Crime No. 93 of 2016 which was re-numbered as Crime No. 57 of 2016 punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishment) Act, 1999.

2. The Applicant is already chargesheeted. The learned Counsel for Applicant submits that there are change in circumstances after his earlier prayer for release on bail was turned down by this Court, as such this Application.

3. So as to substantiate his contention, he would invite attention of this Court to the order dated 19th September 2018 and 25th October 2018 passed in Special Leave to Appeal (Criminal) No. 7779 of 2018 granting pre-arrest bail in favour of the co-accused i.e. wife of the Applicant namely, Uzma Zakir Siddiquie.

4. The learned Counsel submits that out of the total amount, already for an amount of Rs.8.6 Crores bank guarantee is executed as is reflected in the above referred order of the Apex Court. In addition submission is made that similar complaint at the behest of depositor namely, Nahid Shamin Ghesawat was investigated into and no substance was noticed. He would draw support from the report drawn by the Police Inspector of the Crime Investigation Department.

5. According to him, since the date of arrest of the Applicant is 30th August 2016 and considering the maximum punishment of seven years prescribed under Section 420 of the Indian Penal Code, he is entitled to be released, as for more than two years the Applicant is behind the bars.

6. The Special Public Prosecutor opposed the claim on the ground that the amount to the extent of 8.6 Crores is secured by bank guarantee, whereas the amount to the extent of Rs.95.00 Lacs can be recovered from the attachments. Though the property worth about Rs.4.00 Crores located in Gurgaon is claimed to have been attached in the crime in question as is reflected in the order of Supreme Court dated 19th September 2018, the said property was occupied by the Accused persons as tenant. The said property at present is in possession of its owners who are other than the accused persons. According to the learned Special Public Prosecutor, no charge or attachment of the said property is carried out till date.

7. Pursuant to the rival submissions, this Court had given an option to the Applicant to deposit Rs.1.5 Crores in this Court, in addition to the bank guarantee of 8.6 Crores furnished by the wife of the Applicant before the Apex Court. The learned Counsel for Applicant on instruction submits that the Applicant is not in a position to furnish the same.

8. Apart from above, the submission that the Applicant is behind the bars for more than two years, will hardly impress upon this Court as

the Applicant is involved in an economic offence which the Apex Court has time and again viewed vividly and seriously. This Court has permitted the Applicant to withdraw the Application vide order dated 15th December 2016 with liberty to approach in case of change in circumstances.

9. The change in circumstances as is claimed and the non-responsible attitude of the Applicant as regards deposit of the amount of Rs. 1.5 Crores, in my opinion, does not warrant exercise of discretion in favour of the Applicant.

10. In that view of the matter, Application fails. Hence rejected.

(NITIN W. SAMBRE, J.)