

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2243 OF 2018

Rama Ganpat Kate

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Adv. Sukhman Rait a/w Ms. Rajeshwari Patil for the Applicant.

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

CORAM : A. S. GADKARI, J.

DATE : 22nd MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No.847 of 2014 dated 21st November, 2014 registered with Mahatma Phule Chowk Police Station, Kalyan, District Thane under Sections 420, 406, 467, 468 and 471 r/w Section 34 of the Indian Penal Code.

2 Heard the learned counsel for the Applicant and the learned APP. Perused the charge-sheet.

3 Accused No.1 Majid Ali @ Guddu (absconding) is the mastermind of the present crime.

The prosecution case in brief is that, the said Accused No.1 in conspiracy with co-accused Mr. Santosh Poojari hatched the present

crime. Majid Ali @ Guddu instructed Santosh Poojari to register a firm in the name of a third person, so that they will not be legally responsible for commission of any offence. Accordingly, co-accused Santosh Poojari induced the Applicant to register a firm by name “Aai Ekveera Homes” and procured license in the name of said firm. The said firm thereafter decided to construct homes for the needy persons at Nevali, Tal. Ambarnath, District Thane on a land belonging to the Government of India. Some structures were accordingly constructed and advertisements were published by Accused No.1 Majid Ali @ Guddu and co-accused Santosh Poojari. About 197 needy persons booked residential premises in the said project as it was represented that, the same were available at reasonable rates. The accused persons thus, collected a sum of approximately Rs.2,64,00,000/-. It is alleged that the agreements with the said persons were signed by the Applicant herein. It is the further prosecution case that, the Applicant was in possession of the said piece of land on which the co-accused Majid Ali @ Guddu and Santosh Poojari erected/constructed the structures and promise the gullible purchasers to sale it at reasonable cost.

During the course of investigation, the Applicant came to

be arrested on 4th November, 2016 and after completion of investigation, the police have submitted charge-sheet.

4 The record indicates that as per the prosecution case itself, the Applicant was cultivating the land beneath the structures erected by the co-accused though it is originally owned by the Government of India. It appears that, the co-accused lured the Applicant by presenting the scheme of development of the property and made some payment to him. It further, *prima facie*, appears that the Applicant has no direct role to play in the present crime and it is only due to the co-accused Majid Ali @ Guddu and Santosh Poojari, the Applicant gave his piece of land to them for development.

5 After perusing the entire record, *prima facie*, it appears that apart from what has been stated hereinabove, the Applicant has no other role to play in the present crime.

In view thereof, the Applicant can be released on bail.

Hence, the following order.

- a) The Applicant be released on bail in CR No. 847 of 2014 dated 21st November, 2014 registered with Mahatma Phule Chowk Police Station, Kalyan, Dist.

Thane on his furnishing PR bond of Rs. 25,000/with one or two solvent local sureties in the like amount.

- b) After his release from Jail, the Applicant shall attend the concerned Police Station on every first Monday of the month between 11.00 a.m. to 1.00 p.m.
- c) The Applicant shall attend all the dates before the Trial Court unless precluded on medical reasons.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

6 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)