

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2706 OF 2018

Amey Prabhakar Sawant, Age 28 years,
R/o.5/504, A-Wing, Goverdhan Baug,
Manmala Tank Road, Mahim,
Mumbai-400 016.

Applicant

versus

The State of Maharashtra and another

Respondents

WITH

CRIMINAL BAIL APPLICATION NO.3055 OF 2018

Sunil Dyananeshwar Sonar, Age 40 years,
R/o.255, Sonar-Kasar Ali, Bhiwandi
District Thane.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Rajiv Patil, Senior Advocate, with Mr.Ujjwal Gandhi I/by K.R.Shah
for applicant in BA No.2706 of 2018.

Mr.Raju Suryawanshi with Suraj Naik for applicant in BA No.3055 of
2018.

Mr.Prashant Jadhav, APP, for State.

Mr.Vijay Hiremath for intervenor.

Mr.Pramod Kakade, Police Inspector, CID, DPS, Mumbai, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th January 2019

PC :

1. These are applications for bail preferred by the applicants in connection with CR No.29 of 2018 registered with DCB, CID, UNIT-CIU. The offences were registered vide FIR dated 30th April 2018 under Sections 408, 420, 465, 467, 489, 471, 120-B of Indian Penal Code.

2. The case of prosecution is that the complainant is working as Associate Executive Editor of Times of India. The company Bennett

Colemn and Co. Limited collects news through sources and appoints writers as full time and part time reporters to write for its newspapers at the D.N.Road office. The company collects news through e-mail from part time reporters and contributors. Subsequently they are paid wages on the basis of their contribution to the newspaper. It is alleged that one Amit Mayekar, Secretary to the first informant, was looking after and handling part time contributor payments. The complainant used to sign payment invoices. It is alleged that the accused Amit Mayekar and other accused have misappropriated huge amounts. The applicants were arrested on 17th May 2018 and 22nd June 2018 respectively. The applicants preferred application for bail before Sessions Court, which was rejected.

3. Learned counsel for applicant in Bail Application No.2706 of 2018 submitted that he is in custody from the date of arrest. Investigation is completed and charge sheet is filed. Further custody of the applicant is not required. The applicant is not main accused. It is further submitted that the property of the applicant is seized by police during the course of investigation. The flat premises belonging to the applicant has been seized. The said premises was purchased for a consideration of Rs.11 lakh, however, the value of the said property is much more at the time of registration of FIR. It is submitted that the motorcycle belonging to the applicant was also seized from the custody of applicant. The jewellery worth Rs.14 lakh and cash of Rs.66,000/- was also seized. It is submitted that the amount allegedly misappropriated by the applicant stands secured on account of seizure of aforesaid articles. It is submitted that no verification about articles being written by the vendors was conducted. It is submitted that some of the vendors are impleaded as accused and others were shown as witnesses in the case. The property seized from the applicant is worth Rs.30 lakhs. It is submitted that substantial amount which was credited

to the account of applicant, has been transferred to the account of Amit Mayekar. It is, therefore, submitted that bail may be granted to applicant in BA No.2706 of 2018.

4. Learned counsel for applicant in Bail application NO.3055 of 2018 submitted that he was working as driver of Amit Mayekar. It is submitted that on the instructions from his employer, the amount was credited to the account of said applicant and his family members. It is submitted that no other role is played by him in the crime. He was arrested on 22nd June 2018 and since then he is in custody. There are no criminal antecedents against him.

5. Learned APP vehemently urged that there is sufficient evidence against applicant. The statements of witnesses clearly indicate role played by the applicant Amey Sawant in this transaction. It is submitted that he is related to the main accused Amit Mayekar. The accounts of several vendors were opened at the instance of Amit Mayekar. Substantial amount has been credited into the account of present applicant. Merely on account of seizure of certain properties of applicant, bail may not be granted to him. It is further submitted that the applicant in BA No.3055 of 2018 is also involved in the crime and he is beneficiary of amount of Rs.18,87,325/-.

6. Learned counsel for intervenor objected for grant of bail. He submitted that the crime is serious. Both the accused have played major role in the crime. He also relied upon the decision of Hon'ble Supreme Court of India in the case of Vinod Bhandari Vs. State of Madhya Pradesh (2015)1-SCC-502.

7. I have perused the documents on record. From the charge sheet it is apparent that the applicant Amey Sawant played a major role in the

crime. Apparently he is closely related to the principal accused Amit Mayekar. On perusal of the documents it is apparent that huge funds of the complainant company were misappropriated by the accused. The role of Amey Sawant is not only restricted for securing vendors but it is beyond that. He has created thirty vendors/contributors including his wife. For each transaction he had obtained Rs.5,000/- every month from each vendor/contributor. The main accused in connivance with applicant formed company viz Pragati Tours and Travels and obtained gumasta license. Account was opened with IDBI Bank and huge amount was diverted through vendors. The company is allegedly not in existence. Investigation revealed that he had arranged thirty vendors from Dadar area to main accused Amit Mayekar. Applicant had booked the flat at Varai and utilized the amount from the account of Pragati Tours and Travels in IDBI Bank which was used as vendor. The said applicant has not only received the amount from vendors but also created fake travel agency as stated above and funds were manipulated through said agency. The applicant has formed a company and misappropriated huge amount through it. The case of accused who were granted bail stands on different footing and thus applicant cannot claim parity. As far as applicant in BA No.3055 of 2018 is concerned, apparently he is driver of accused Amit Mayekar. The accounts were opened in the name of his family members and amounts were credited to their accounts. It appears that the amount was also re-transferred to the account of principal accused Amit Mayekar. However, it is pertinent to note that no other role is played by him in the crime. He is in custody from the date of arrest.

8. Considering the aforesaid circumstances, case of applicant in BA No.3055 of 2018 can be distinguished from the case of applicant in Bail Application No.2706 of 2018.

9. Accordingly, I pass following order :

ORDER

- (i) Criminal Bail Application No.2706 of 2018 is rejected;
- (ii) Criminal Bail Application No.3055 of 2018 is allowed and disposed off;
- (iii) The applicant in Bail Application No.3055 of 2018 is directed to be released on bail in connection with CR No..29 of 2018 registered with DCB, CID, UNIT-CIU, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iv) The applicant in Bail Application No.3055 of 2018 is directed to attend DCB, CID, UNIT-CIU once in a month on every first Saturday between 11 am and 1 pm;
- (v) The applicant in Bail Application No.3055 of 2018 shall not tamper with the evidence and shall attend the Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST