

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

Sunil Harishchandra Mhatre ...Applicant
Vs.
The State of Maharashtra and Anr. ...Respondents

Mr. A.P. Mundargi, Senior Counsel i/b. Mr. Vaibhav V. Ugle
for Applicant
Mr. S.S. Pednekar -APP for the State
Mr. Prabhanjan Gujar for Respondent No.2
Dr. Vijay Dongare, Respondent No.2 present in Court
Mr. J.R. Rajurkar, PIL, EOW-2, Navi Mumbai.

DATE : JANUARY 28, 2019

1. This is a subsequent application seeking enlargement on bail in Crime Nos. 105 of 2017 and 106 of 2017 registered at Kalamboli Police Station, Dist. Raigad for the offences punishable under Sections 420, 465, 467, 468, 471, 474 and 120B of the Indian Penal Code. The Applicant herein was arrested on 4th August, 2017.

2. The previous application filed by the Applicant under section 439 of the Cr.P.C. was rejected by this Court vide order dated 15th February, 2018.

3. The learned Senior Counsel has submitted that as on today, Dr. Vijay Gundopant Dongare, at whose behest the first information report was lodged by the police officer and at whose

behest PSI Mahesh Pandurang Manare of Economic Offences Wing who had lodged a report, has filed an affidavit in this Court contending therein that the Applicant herein had agreed to deposit the whole amount of Rs.67,00,000/-. As on today, the entire amount of Rs.67,00,000/- has been received by the Complainant.

4. The learned counsel appearing for Dr. Dongare submits that Dr. Dongare is present in the Court and as per his instructions, the entire amount of Rs.67,00,000/- has been received and, therefore, he has no grievance to that effect.

5. The learned Senior Counsel submits that in other cases filed against the present Applicant, he has been enlarged on bail by the Sessions Court since he was not shown as a beneficiary of the amount. It is also submitted that the offences alleged against the present Applicant are triable by a Magistrate. That Section 420 of the Indian Penal Code is compoundable under section 320 of the Code of Criminal Procedure, 1973.

6. The Applicant has also filed a petition seeking quashing of FIR on the basis of the affidavit filed by Dr. Dongare. However, it appears that the Applicant is also being prosecuted for the offences punishable under section 467, 471 of the Indian Penal Code, which are non-compoundable offences. The Applicant is in custody for almost 18 months. At present, it may not be possible to conclude the trial within a stipulated time and, therefore, the Applicant deserves to be enlarged on bail in Crime Nos. 105 of 2017 and 106 of 2017 registered at Kalamboli Police Station, Dist. Raigad. In the eventuality that there are any other cases registered against the Applicant, he shall not be entitled to claim parity on the basis of

the order of this Court and the same will be decided in the facts of the case. The beneficiaries in the said offence i.e. Pandurang Patil, Narayan Thakur, Ananta Thakur have been granted bail by the Judicial Magistrate, First Class, Panvel.

7. Hence, the following order is passed:

ORDER

- (i) The application is allowed and stands disposed of.
- (ii) The Applicant be enlarged on bail in Crime Nos. 105 of 2017 and 106 of 2017 registered at Kalamboli Police Station, Dist. Raigad for the offences punishable under Sections 420, 465, 467, 468, 471, 474 and 120B of the Indian Penal Code, on furnishing P.R. Bond of Rs.1,00,000/- and one or more solvent sureties in the like amount.
- (iii) The Applicant shall report to the concerned police station as and when called and shall also give an undertaking that he would attend each and every stipulated dates before the Court of Magistrate and will not leave the country without prior permission of the Court.

[SMT.SADHANA S. JADHAV, J.]