

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

CRIMINAL BAIL APPLICATION NO.21 OF 2021

Rajvardhan Tulshiram Patil	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Anand Upadhyay for the Applicant

Mr. H. J. Dedhia, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 14th OCTOBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 94/2017 initially registered with the Kamothe Police Station and subsequently transferred to the Economic Offence Wing-II, Navi Mumbai, for the alleged offences punishable under Sections 420, 406, 34 of the Indian Penal Code; under Section 13 of Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale,

Management and Transfer).

3 Perused the papers. According to the complainant-Yogesh Salunkhe, he was in search of a room/tenement near Panvel. He has stated that he has received information that M/s. Khyatiraj Devcon was going to start a construction of new building project at Bhokarpada Harigram, Mauje Shivkar, Survey No. 304, Taluka Panvel, District Raigad. The complainant-Yogesh has further alleged that he visited the office of M/s. Khyati Devcon on 12th April 2015, where, he was informed that the applicant and his wife were the Directors of the said M/s. Khyatiraj Devcon Pvt. Ltd. and that another co-accused-Sanjay Govari and his wife were partners of M/s. Khyatiraj Builders and Developers. It is alleged by the complainant that the land on which the building was to be constructed, belonged to Sanjay Govari and his wife and that all permissions were obtained and they were to start and complete the project in two years. Pursuant thereto, the complainant-Yogesh visited the site and thereafter, booked a flat of 225 sq.ft. and paid a sum of Rs. 56,250/- to the builder, by cheque. He has stated that the project did not start and hence, he met the applicant and other co-accused-Sanjay Govari, however, they gave evasive answers and did not return the money. Pursuant thereto, the aforesaid complaint was lodged, alleging the aforesaid offences.

4 It appears that at about 32 people had booked flats in the said project and the total amount involved in the present C.R. is about Rs. 8,43,625/-. It appears that during the course of investigation, the total properties seized/attached were 4 immovable properties, valuation of which, is Rs. 1,64,79,800/- and bank account having sum of Rs. 53,19,206/- in Fixed Deposits, which have now been converted into loan amounts. The said properties which have been attached, belong to the other co-accused and not the applicant. All the other 3 co-accused, including Sanjay Govari have been released on bail.

5 Learned counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant, duly affirmed before the Jailor, Talaja Central Prison. The same is taken on record. In the said affidavit-cum-undertaking, the applicant has undertaken to deposit a sum of Rs. 10,00,000/- within 3 months from the date of his release.

6 The applicant is in custody since 8th March 2019. Investigation is complete and charge-sheet is filed. It appears that there are 3 cases in all, registered as against the applicant, alleging similar offences, except an offence under the MPID Act. The total amount involved in all the said

cases is about Rs. 81 lakhs odd and the properties attached are valued at about Rs. 1 crore 64 lakhs.

7 Considering the aforesaid, further detention of the applicant is not warranted. Accordingly, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, until further orders;
- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iv) The applicant to cooperate with the conduct of the trial

and attend the trial Court on all dates, unless exempted.

8 The application is allowed in the aforesaid terms and is accordingly disposed of.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.