

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

CRIMINAL BAIL APPLICATION NO. 2730 OF 2019

Prakash Govind More
Versus
State of Maharashtra

...Applicant

...Respondent

Mr. Sanjiv A. Sawant i/b Mr. Heramb Kadam, Advocate for the Applicant.
Mr. A. R. Patil, APP for the State/Respondent.
Ms Priya Prakash More present.

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 27TH JANUARY 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. 83 of 2019 registered with the Bhiwandi City Police Station, Thane, for the alleged offences punishable under Sections 420, 409, 406, 120-B of the Indian Penal Code; under Section 3 of the Maharashtra Protection of Interest of Depositors (In financial Establishments) Act, 1999 (for short 'MPID Act'); and under Section 66-D of the Information Technology Act, 2008.

3. Learned counsel for the applicant submits that the applicant was on the board of directors of Tips Zone Advisory Private Limited only for one month, i.e., from 7th September, 2018 to 25th October, 2018. He submits that the applicant is in custody from 2/9th March 2019 and that investigation is complete and chargesheet is filed. Learned counsel for the applicant submits that the applicant has filed an affidavit-cum-undertaking of himself and of his wife Mrs. Priya More, setting out the properties standing in their joint name, the valuation of which is Rs. 1,35,00,000/-. He submits that both, the applicant and his wife-Priya have undertaken that they will not sell, dispose off or create any third party interest or encumbrance on the said properties mentioned in the affidavit-cum-undertaking, nor will they part with the possession/alienate/mortgage/gift any of the properties standing in their names.

4. The applicant's wife-Mrs. Priya More is present in the Court. She reiterates what is stated in the affidavit-cum-undertaking filed by her and understands the consequences of non-compliance of the said affidavit-cum-undertaking. Learned counsel for the applicant submits that the applicant without prejudice his rights is ready to hand over the original documents of the properties mentioned in the affidavit-cum-undertaking before the learned Special Judge, within two weeks of his release.

5. Learned APP states that the total amount involved in the alleged offence is about Rs. 2,81,00,000/- . He submits that the valuation of the properties mentioned by the applicant and his wife in their affidavit-cum-undertaking is to the tune of Rs. 1,16,00,000/- and not Rs. 1,35,00,000/- as alleged by the learned counsel for the applicant. He, further, on instructions states that the concerned officer has verified whether the said properties mentioned in the affidavit-cum-undertaking are free from encumbrance and states that there are no encumbrances on the said properties mentioned therein. He further submits that all the said properties mentioned in the affidavit-cum-undertaking have been secured by the police under Section 3 of the MPID Act.

6. Perused the papers. Pursuant to a complaint lodged by one Vishal Patil on 29th March 2018, with the Kapurbawadi Police Station, Thane, CR No. 83/19 was registered as against the applicant and other co-accused for the alleged offences punishable under Sections 420, 409, 406 and 120-B of the IPC. It appears that the Kapurbawadi Police Station, Thane transferred the investigation in the said crime to the Economic Offences Wing (EOW), Thane, pursuant to which Section 3 of the MPID Act and Section 66D of the Information Technology Act were invoked. During the course of investigation, the applicant was arrested on 29th March 2019.

7. It appears that the total amount involved in the said case is about 2,81,00,000/-. According to the learned counsel for the applicant, the applicant was a director of Tips Zone Advisory Private Limited only for one month i.e. from 7th September, 2018 to 25th October, 2018. He submits that without prejudice to the applicant's rights and without going into the merits of the application, the applicant has filed an affidavit-cum-undertaking setting out the properties that he owns alongwith his wife-Priya More. He submits that the valuation of the properties is more than 1,35,00,000/-, i.e., 50% of the alleged amount involved in the crime. He submits that there are 5 more accused in the said case, who are still in custody. He submits that the affidavit-cum-undertaking filed by the applicant and his wife show the number of properties owned jointly by them. Admittedly, the properties are worth atleast 1,16,00,000/-. There are five directors involved in the said case. It appears that the applicant was a director of the said company only for a month. The exact role of the applicant and his complicity will be tested during his trial. Investigation is complete and chargesheet is filed. The applicant and his wife-Priya have undertaken not to create any third party interest or sell or mortgage or encumber or part with possession or alienate or gift the properties. It appears that all the properties mentioned in the affidavit-cum-undertaking have also been secured by the police under Section 3 of the MPID Act.

8. 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. 50,000/- (Rs. Fifty Thousands Only) with one or two local solvent sureties in the like amount;
- (ii) The applicant shall report to the investigating officer of the concerned police station on the first Monday of every month between 10.00 a.m. and 12.00 noon until further orders;
- (iii) The applicant shall not leave the jurisdiction Mumbai, Thane and Palghar, without the prior permission of the trial Court;
- iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The applicant to co-operate with the conduct of the trial and attend before the trial Court on all the dates, unless exempted;

(vi) The applicant shall file an undertaking with regard to Clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) The applicant shall before his release submit/hand over all the original property papers mentioned in the affidavit-cum-undertaking filed in this Court, before the trial Court, alongwith a copy of the affidavit-cum-undertaking.

(viii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

10. 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.

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

REVATI MOHITE DERE, J.