

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2956 OF 2019

Madhukar Vithalrao Suryavanshi	Applicant
versus	
The State of Maharashtra	Respondent

WITH
INTERIM APPLICATION NO.123 OF 2020

Samyak Welfare Association	Intervenor
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In the matter between :

Madhukar Vithalrao Suryavanshi	Applicant
versus	
The State of Maharashtra	Respondent

WITH
INTERIM APPLICATION NO.1729 OF 2021

Madhukar Vithalrao Suryavanshi	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Arvind Kumar Chauhan with Mayuresh Pawar for applicant in BA.
None for applicant in IA.123/2000.
Mr.R.M.Pethe, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th August 2021

PC :

1. This is an application for bail. The applicant is arrested in connection with CR No.315 of 2014 registered with Bhoiwada Police Station which was subsequently investigated by Economic Offences Wing, Crime Branch, Mumbai vide CR No.15 of 2017. The offences

were registered under Sections 420, 409 of Indian Penal Code and under Section 3 of MPID Act.

2. The case of prosecution is that the applicant represented himself to be the Chairman of Samyak Niwas Haqqe Sangh Proyojak Bhim Foundation ('SAMYAK NIWS SANGH' for short). An advertisement was published stating that houses would be provided at Titwala and other places at cheap rates. The complainant had parted amount towards booking of the premises. Several other persons also invested amount towards purchase of houses. Amount of Rs.9,92,97,615/- was collected from investors. Pursuant registration of FIR, statements of various aggrieved persons were recorded. On completing investigation, charge sheet was filed.

3. The applicant preferred application for bail before Special Court under MPID Act. The said application was rejected.

4. Learned advocate for applicant submitted that the applicant is in custody for a period of about three years. There was no intention to cheat. Most of the construction was completed. The applicant is granted bail in cases registered with other Police Stations. Several properties were seized during the course of investigation and they are under attachment. Reference is made to the bail orders passed in respect to cases registered with other Police Stations. The applicant has filed an affidavit which has been affirmed in the jail where the applicant had been detained, stating that the details of immovable properties purchased in the name of Samyak Niwas Sangh are provided in the affidavit. The properties are situated at Pune Vadgaon Sinda- Survey No.349; at Nashik-Survey No.53/1, CTS

No.1691; at Titwala Survey No.198, Hissa No.1; at Aurangabad-Survey No.11/2, at Malwani Mumbai-CTS No.1444,1444/1 to 5 and C.S.No.1445, at Solapur Soregaon - Gat No.151/2B/2A, at Malad Malwani CTS No.747; and at Panvel at Village Gulsunde Survey No.14. It is stated that all these properties are attached by concerned authorities. It is further stated that value of aforesaid properties is above Rs.100 crores as per current market rate and the amount of the investors can be easily paid off by sale of properties. There would be surplus amount after paying to the investors. The applicant has repaid Rs.12 crores to various parties in the year 2012-13 and the transactions were routed through banking channels and the entire record, bank pass books, property documents etc. are with investigating agency. It is stated that the applicant had suffered heart attack in the year 2011 and was unable to monitor day to day progress of the construction activities; as a result of which the investors got panic. He has not misappropriated funds for his personal use. The applicant is arrested in the cases registered with other Police Stations and the details are provided in the affidavit. The photographs of under construction buildings at Pune, Aurangabad and Titwala are annexed to the affidavit. The affidavit is taken on record.

5. Learned APP submits that huge amount was collected by applicant by promising investors that they would be provided houses at cheaper rate. During the course of investigation, statements of several aggrieved persons were recorded. The applicant has carried out construction at Pune, Aurangabad and Titwala. However, it is not completed. There are housing projects at Bhavsingpura, at Aurangabad, and four buildings are constructed with 64 flats. 22

flats were sold. The said amount is required to be collected and seized. Several persons are aggrieved by false promises made by applicant. He pointed out the photographs of the construction of building and submitted that at some places there is hardly any construction and some of the buildings are half way constructed and there is no progress in construction.

6. From the record it is apparent that construction at various places had commenced. Undisputedly some of the buildings were constructed. Several properties were attached under the provisions of MPID Act. The applicant has filed affidavit giving details of the properties attached. The applicant has contended that value of the properties attached is more than Rs.100 crores, which exceeds the amount collected from the investors. The applicant is in jail since last more than three years. Statements of several investors are recorded. There is no progress in trial. It is not clear as to when the trial would start and conclude. In other similar cases which are connected with transactions in question, the FIRs have been registered with various Police Stations and bail has been granted to applicant in those cases. Considering the aforesaid circumstances, bail can be granted to the applicant. Hence, I pass following order:

ORDER

- (i) Bail Application is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No. 315 of 2014 registered with Bhoiwada Police Station, Mumbai, which was subsequently investigated by Economic Offences Wing, Crime Branch, Mumbai vide CR No.15 of 2017, on executing PR bond in the sum of Rs.1,00,000/- with one or more sureties in the like amount;

- (iii) The applicant shall not object for the attachment of properties and initiating appropriate proceedings under MPID Act in respect to the properties attached for recovering the amount for securing the amount invested by the investors;
- (iv) The applicant shall report Economic Offences Wing, Crime Branch, Unit-8, Mumbai once in three months on first Saturday of month between 11 am and 1 pm till further orders;
- (v) The applicant shall not tamper with evidence
- (vi) The applicant shall not sale or create third party rights and interests by himself or through any other person in respect of the properties which are seized and/or attached in these proceedings and shall not deal with them in any manner whatsoever;
- (vii) Both Interim Applications are disposed of.

(PRAKASH D. NAIK, J.)

MST