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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3744 of 2021

Ramzan Ali Nabi Shaikh

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Sunny A. Waskar for the Applicant.

Smt. A.A. Takalkar, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 19th JULY, 2022

P.C:-

1. The applicant is charged for the offence punishable under Sections 304(2), 336, 337 and 338 read with Section 34 of the Indian Penal Code.

Upon being arrested in connection with CR being C.R. No.953 of 2021 which was registered with Malwani Police Station, when a building constructed before nine years, collapsed and was responsible for death of 12 persons and 7 persons being injured, the applicant seek his release.

2. On 09.06.2021, a building situated behind Bus Depot Gate No.8, Malwani, Malad comprising of ground floor plus two storeyed, collapsed on the adjoining building and the residents of the said house crumbled under the said building.

On investigation, it was revealed that the house belongs to

one Rafiq Siddhiqui and the building was constructed without obtaining requisite permissions. The investigation also revealed that the construction of building was of inferior quality and it faced a cyclone, which hit few days back and some cracks developed in the building. The charge-sheet accused, the owner of the building, Rafiq Siddhiqui, of being careless, in not taking effective steps to cure the same and which caused loss to the property and to the life of several human beings. The said accused did not shift the residents of premises, despite having sufficient opportunity.

3. As far as the present applicant is concerned, the role which is attributed to him in the charge-sheet is, that he had constructed the said, building 8 years back. The statement of one Munir Shaikh, whose house is constructed adjoining the said wall of Rafiq, has stated that he has constructed his house in the year 2001 through Ramzan Shaikh-the Applicant. After the construction of his house was over, after 2-3 months, Rafiq engaged the services of the applicant, who was a contractor and completed the construction of his building. The said witness has also stated that after construction of the house of Rafiq, he also added one floor to the house, resultantly, the walls of two houses rubbed with one another.

The charge-sheet attributes the applicant to be responsible for construction of the said building and the building already being of inferior quality, suffered the cyclone and it could not sustain itself and collapsed on 09.06.2021, resulting into registration of the offence against the two accused persons.

4. Learned counsel for the applicant submitted that Rafiq is responsible for not taking corrective steps of filling the cracks to in the buildings, occurred due to heavy winds and which caused collapse on 17.05.2021.

5. From the material compiled with the charge-sheet, it can be said that the cyclone might contributed to the collapse of the building but that cannot be said to be the sole cause. A building which was constructed barely 8 years ago collapsed and looking to the photographs compiled in the charge-sheet, it can be said that the said building was constructed without obtaining the permission unauthorizedly and the applicant is charged for carrying out the construction of building which was of inferior quality. The charge-sheet also compile statement of a witness, who has stated, that the applicant was also called to be appraised of the precarious condition of the building, after the cyclone, but no steps have been taken by the accused persons, which resulted into the calamity.

6. The offence with which the applicant is charged is serious one which, has resulted in death of 12 persons and 7 persons have sustained serious injuries. Considering the role attributed to the present applicant, the applicant do not deserve his release on bail.

7. The application is rejected.

(SMT. BHARATI DANGRE, J.)