



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

BAIL APPLICATION NO.65 OF 2023

DEEPAK YASHWANT PATIL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.480 OF 2023
IN
BAIL APPLICATION NO.65 OF 2023**

DR. KISHOR VISHWASRAO PATIL ..APPLICANT
IN THE MATTER BETWEEN
DEEPAK YASHWANT PATIL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Nitin Pradhan i/b. Adv. Shubhada Khot for the
Applicant.
Mr. N. B. Patil, APP for the State.
Adv. Niranjana Mundargi i/b. Adv. Vaibhav Kulkarni for
intervener/complainant.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 17, 2023

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. This is an application for bail in respect of the offence punishable under Sections 420, 465, 467, 471 read with 34

of the Indian Penal Code (hereafter 'IPC' for short) registered on 26.10.2021 vide C.R. No.474 of 2021 with Chaturshringi Police Station, District Pune.

3. The investigation into C.R. No.474 of 2021 of the Chaturshringi Police Station for offence punishable under Sections 420, 465, 467, 471 read with 34 of the IPC was commenced against the applicant who was shown as accused No.1 as well as against accused No.2-Rajashri Shahu Bank and accused No.3-Raje Shivaji Gramin Bigar Sheti Co-operative Society. The charge-sheet was filed in the Court of Judicial Magistrate First Class, Court No.9, Pune, numbered as R.C.C. No.3762 of 2022.

4. The dispute is in relation to the Directorship of Siddhant Infrastructure Private Limited and related transactions qua landed properties. On 14.01.2023 Siddhant Infrastructure Private Limited was incorporated. There were two Directors at the time of incorporation viz. the present applicant and his wife Mrs. Maya Patil having a shareholding of 50% each. On 04.05.2013 under Sale Deed, Survey No.42/10 admeasuring 3800 sq.mtrs., at Balewadi,

Pune was purchased in the name of the company by the applicant and another Director. The 7/12 extract shows the name of the company through Director-the applicant as the owner. On 24.12.2014, the applicant's wife resigned from the company as a Director, yet continued to hold share of 50% of the paid up capital. On the same day one Mr. Mayur Kashinath Balkawade was inducted as additional Director.

5. Sometime in the beginning of the year 2016, a proposal was submitted by the applicant for construction of Siddhant Heights consisting of flats/units on the said property. The development plan was approved by Pune Municipal Corporation and C.C. came to be issued on 20.02.2016. The applicant in his capacity as Director and being a majority shareholder approached accused No.2- Shahu Bank for a loan of Rs.5 crores by mortgaging the said property and accordingly, constructed ground + 2 floors of A and B Wing, after receipt of permission from Pune Municipal Corporation.

6. Sometime in February 2016 three persons namely Sachin Kisan Chavan, Kiran Shivdas Rathod and Kisan

Ramchandra Chavan approached the applicant for a joint venture in the development of Siddhant Heights. These three persons were inducted as Additional Directors. The proposal did not materialise. A Memorandum of Understanding (MoU) dated 06.03.2017 was signed which resulted in resignation of these three persons from the Additional Directorship of the company.

7. On 21.03.2018, the complainant – Kishor Patil and his partner Balbhim More and others of Amarnath Builders and Developers approached the applicant for a joint venture to develop the said property. The MoU was accordingly signed on 21.03.2018. The agreed terms and conditions are set out in the agreement. The entire project was to be completed within two years of the agreement i.e. by 02.03.2020.

8. There were some proceedings filed against the applicant in some other case which led to his prosecution in C.R. No.175 of 2018. Upon his release on bail, it is the case of the applicant that he had lost the control of the company at the instance of the complainant – Kishor Patil who has acted in a fraudulent manner, so as to get himself

discharged from the obligations under the agreement dated 21.03.2018. The disputes between the parties started in relation to the Directorship of Siddhant Infrastructure Private Limited which resulted in several litigations. A Civil Suit came to be filed by the complainant for various reliefs. Even the present applicant approached the NCLT and Registrar of Companies for various reliefs. Revenue proceedings came to be instituted.

9. So far as the accusations in the instant FIR is concerned, learned counsel for the complainant has pointed out that the accusations in the FIR and the materials on record reveal that an amount of Rs.11.25 crores was transferred/withdrawn from the bank account of M/s. Siddhant Infrastructure by the applicant unauthorisedly and unlawfully thereby committing a fraud. Further there are cash withdrawals from the bank account of Shahu Bank to the tune of Rs.1.79 crores. It is the accusation that an amount of Rs.13.15 crores was transferred/withdrawn. It is then submitted by learned counsel for the complainant that the flats were sold of in a fraudulent manner and

though the applicant did not have any authority to do so, the properties were mortgaged to various bank thereby causing loss to the joint venture. According to learned counsel for the complainant loss to the company and various flat purchasers is to the tune of Rs.39 crores. The forensic audit in that regard is pending. Further a chart has been submitted by learned counsel for the complainant that as per the charge-sheet, the fraudulent transactions by the applicant are thus :-

"1. With allegations of forged commencement certificate and sanction plans.

- a. Sunil Wankhede – **Rs.22,00,000/-**
- b. Maruti Balwadkar – **Rs.2,00,00,000/-**
- c. Digvijay Misal – **Rs.30,10,679/-**

2. Money taken but flat not given

- a. Jayesh Patil – **Rs.30,75,000/-**
- b. Shyam Poshitti – **Rs.40,00,000/-**
- c. Ganesh Shimpi – **Rs.35,00,000/-**
- d. Vinod Kene – **Rs.37,00,000/-**
- e. Kuljeet Tokas – **Rs.2,82,00,000/-**

3. Flat sold without sanction plans

- a. Santosh Gaikwad – **Rs.35,00,000/-**
- b. Vastu Pal
- c. Mr. Gholap

4. Flats sold to two individuals/Double Sale

- a. Prakash Salunkhe – **Rs.59,60,000/-**
- b. Manish Hivre – **Rs.11,50,000/-"**

10. It is submitted that there are as many as six criminal complaints pending against the applicant.

11. I have considered the submissions of learned counsel. I have also perused the order passed by the Hon'ble Supreme Court dated 20.05.2022 in Criminal Appeal No.905 of 2022 whereby for the reasons mentioned in the order the Hon'ble Supreme Court was of the view that this Court committed an error in granting pre-arrest bail to the applicant in a casual manner ignoring the nature and gravity of the offence alleged to be committed by the respondent-accused (present applicant) and the role attributed while considering whether to grant pre-arrest bail or not. It was observed that whether to grant anticipatory bail or not is undoubtedly a matter of discretion. However, the discretion should not be exercised lightly in cases of economic offences, large scale offences, cheating and fraud. The Hon'ble Supreme Court observed that in the event, the

present applicant surrenders and applies for regular bail, the same may be considered as expeditiously as possible, preferably within three working days.

12. The applicant surrendered on 21.06.2022 and since then in custody. The charge-sheet was filed on 17.09.2022. The genesis of the dispute is regarding control of Siddhant Infrastructure Private Limited. The accusations no doubt are serious. The applicant will face the consequences of trial if found guilty. There are proceedings pending before the NCLT and Registrar of Companies initiated by the applicant which essentially are matters pertaining to the disputes between the applicant and the company in relation to the Directorship of Siddhant Infrastructure Private Limited.

13. Learned counsel for the applicant on instructions of the applicant's son who is personally present in the Court today to show the bonafides of the applicant, submits that the applicant is willing to deposit a sum of Rs.60 lakhs with the trial Court without prejudice to his rights and contentions. It was submitted that a sum of Rs.20 lakhs will be deposited within a period of one week from today and

balance Rs.40 lakhs will be deposited within a period of four months from the date of the applicant's release. It is further submitted that the properties belonging to the applicant are already subject to a charge by the financial institutions. Learned counsel for the complainant counters this submission of the applicant urging that the properties which the learned counsel for the applicant is mentioning are not personal properties of the applicant but are in fact properties sold to various flat purchasers which were mortgaged by the applicant with different financial institutions.

14. Learned counsel for the applicant, on instructions, therefore, makes a statement that though the applicant does not have any property in his name or that of his wife, in case it is found that there are any properties of his ownership, the applicant shall have no objection if the same are subject to any attachment or charge in accordance with law. Furthermore it is submitted by learned counsel for the applicant on instructions that the applicant shall have no objection if any of the bank account/s of the applicant is/are

frozen in accordance with law.

15. The applicant was arrested on 21.06.2022 and is now in custody for fifteen months. The trial is likely to take a long time to conclude. In the facts and circumstances of the present case the applicant can be enlarged on bail as the investigation is complete and the charge-sheet has been filed. The applicant will face the consequences of the trial if found guilty. In view of the statements made and recorded hereinbefore and by imposing stringent conditions on the applicant, the applicant can be enlarged on bail as no purpose will be served by prolonging the custody of the applicant which will only be by way of a pre-trial punishment. Learned counsel for the applicant on the instructions of the applicant and his son who is personally present in Court submits that the affidavit/undertaking to the above effect will be filed in this Court prior to his release. The applicant has roots in the society and does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.

(b) The applicant - Deepak Yashwant Patil in connection with C.R.No.474 of 2021 registered with Chaturshringi Police Station, District Pune shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more solvent sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Chaturshringi Police Station, District Pune once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall file an affidavit/undertaking in this Court prior to his release on bail confirming the statements which have been made on his behalf by learned counsel for the applicant and recorded hereinbefore and also on the instructions of the applicant's son who is personally present in the Court.

The Jail Superintendent to permit the applicant to affirm the affidavit.

(g) The applicant shall surrender his passport, if any, to the investigating officer.

(h) The applicant shall not leave the State of Maharashtra or the country without the permission of the trial Court.

(i) The applicant shall attend the trial regularly.

(j) The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

16. The application is disposed of.

17. Interim application is also disposed of.

18. Stand over to 20.10.2023 under the caption "for compliance".

(M. S. KARNIK, J.)