

Shailaja

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

CRIMINAL BAIL APPLICATION NO.3830 OF 2022

Majidali @ Guddu Mansurali Shaikh] Applicant

Vs.

The State of Maharashtra] Respondent

.....

Mr. Pankaj N. More i/b Mr. Nitin C. Kamble, for Applicant.

Ms. Anamika Malhotra, A.P.P, for Respondent – State.

Mr. Devidas Niwruddhi Dhole, A.P.I, Mahatma Phule Police Station,
Kalyan.

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 23rd JANUARY, 2024.

P.C.

1. This is an application by the applicant under section 439 of the Code of Criminal Procedure, 1973 seeking bail.

2. Heard learned Counsel for the applicant and the learned A.P.P.

3. Applicant prays for his release on bail in connection with C.R. No.864 of 2014 registered with Mahatma Phule Police Station, Kalyan for the offences punishable under sections 406, 420 r/w 34 of the Indian Penal Code.

4. In a nutshell, it is the contention of the prosecution that the applicant had entered into a conspiracy with co-accused Santosh Poojari and flouted a development scheme in the name and style “Shree Sai Ekveera Builders & Developers” at Survey No.88, Hissa No.4 at *Vasar Grampanchayat, Taluka Ambernath, District Thane*. Initially, four accused were arrested. Subsequently, the applicant came to be arrested who appears to have absconded after registering an offence against him.

5. Learned Counsel for the applicant submits that in view of release of other accused on bail and also in view of the fact that there is no specific role attributed to the present applicant, he is entitled to be released on bail. He specifically contended that the applicant neither enticed nor promised any of the prospective buyers to purchase house. It is also submitted that the applicant has not received any ill gotten money from the co-accused namely Santosh Poojari.

6. Admittedly, a charge-sheet has been filed and the trial is awaited. It appears that ever since his arrest, the applicant has been incarcerated.

7. Learned A.P.P, on the other hand, is fair enough to submit that necessary orders in the facts and circumstances of this case can be passed.

8. Apart from the ground of parity, the applicant deserves bail on the ground of his incarceration without any hope of concluding trial in near future and also in light of the fact that the material against him, *prima facie*, indicates that he may not be involved in the alleged offence.

9. Needless to state that these are *prima facie* observations *sans* merits of the case only to the extent of considering application for bail. The trial Court shall not get influenced with the observations made hereinabove. Now, to the order.

: ORDER :

[a] Application is allowed.

[b] The applicant – Majidali @ Guddu Mansurali Shaikh be released on bail upon executing a P.R bond in the sum of Rs. 20,000/- with one surety in the like amount in connection with C.R. No.864 of 2014 registered with

Mahatma Phule Police Station, Kalyan to the satisfaction of the Additional Sessions Judge, Kalyan.

[c] The applicant shall attend Mahatma Phule Police Station, Kalyan on every Sunday between 10.00 a.m and 1.00 p.m till conclusion of the trial and shall also attend the trial Court scrupulously.

[d] The applicant shall surrender his passport, if any, to the Investigating Officer.

[e] The applicant shall not leave jurisdiction of Thane as well as Mumbai without seeking prior permission until conclusion of the trial.

[g] The applicant shall furnish his cell number as well as residential address to the Investigating Officer and the trial Court. In case of change of cell number or residential address, same shall be informed to the Police Station and the trial Court.

[h] Needless to state that breach of any of the conditions aforesaid would entitle the prosecution to pray for cancellation of bail of the applicant.

10. Application stands disposed of in the aforesaid terms.

[PRITHVIRAJ K. CHAVAN, J.]