



**IN THE COURT OF SPECIAL JUDGE,
(CONSTITUTED UNDER THE PREVENTION OF CORRUPTION ACT, 1988)
FOR GREATER BOMBAY AT MUMBAI**

**ACB BAIL APPLICATION NO. 188 OF 2022
(CNR NO. : MHCC02-003951-2022)**

IN

(DISP.OFF) ACB REMAND APPLICATION NO. 249 OF 2022

IN

C.R. NO.13 OF 2022

Bharat Laxman Mundhe)
Aged 33 years, Occ : Service,)
R/at : Room No.303, UBI Transit Camp,)
Ghatkopar (East))....Applicant/Orig. Accd.

Versus.

The State of Maharashtra)
(At the instance of A.C.B., Worli, Mumbai)
(C.R.No.13/2022))....Respdt./Complainant

APPEARANCE : -

Ld. Adv. Shri. Vinod S. Chate for the applicant/accused.
Ld. APP Shri. Pankaj Chavan for the State/Respondent/ACB.

**CORAM: H.H. THE SPECIAL JUDGE
UNDER P.C. ACT, 1988
DEEPAK D. ALMALE,
(C.R. No. 45).**

DATED: 1st APRIL, 2022.

: ORAL ORDER :

This is successive bail application moved by accused Bharat

Laxman Munde for bail in view of Sec.439 of Code of Criminal Procedure.

2. In the application it is alleged that Applicant/accused came to be arrested on dated 11.03.2022 in connection with C.R.No.18/2022 registered by the ACB Mumbai u/sec.7, 7 A of Prevention of Corruption Act. Previous bail application filed by the present applicant/accused was came to be rejected by this court by order dated 14.03.2022. According to applicant/accused, as on 14.03.2022 almost material investigation of the matter completed therefore further detention of the applicant/accused is not at all necessary. Further, it is contended that applicant/accused has not committed alleged offence but he is falsely implicated in the present case. Further, it is also contended that there is no *prima-facie* evidence against the accused therefore he may be released on bail and he is ready to abide all the terms and condition as may be imposed by the court.

3. Application objected by the prosecution by filing detail say below Exh.2 with contention that if accused is released on bail then there is every possibility that accused may pressurized complainant and other witnesses. Hence, Ld. APP prayed for dismissal of the application on the ground that there is no change in the circumstances.

4. I have heard learned advocate of accused, Ld. APP and Investigation Officer.

5. Ld advocate of accused has submitted that statement of the witnesses is already recorded and further detention of the accused is not at all necessary. He also submits that the alleged offence punishable u/sec.7 and 7A of P.C. Act are punishable for imprisonment upto 7 years therefore accused is entitled for bail. In support of argument has

relied upon a ruling *Khemlo Sakharam Sawant V/s. State 2001 BomCR(Cri)761, Bhagirathsinh Judeja V/s. State of Gujarat 1984 AIR (SCC) 37 and Mohan Raikwar V/s. State of M.P. 20001 (2) HLR 456.*

6. I have considered submissions of both the sides and gone through the case papers. Admittedly first bail application filed by the applicant/accused came to be rejected by this court on 14.03.2022 with observation that, taking into account involvement of the accused, acceptance of bribe and taken into account quantum of bribe amount of Rs.5,00,000/- obviously it is serious case. Further it was observed that investigation of the case is going on therefore possibility of tampering of prosecution witnesses and threatening to the complainant at the hands of the accused cannot be ruled out.

7. In light of this fact it is necessary to look into the any change in the circumstances which justify grant of the bail to the accused. The Ld. advocate of the accused submits that statement of witnesses is came to be recorded onwards 14.03.2022 and nothing is remain to investigate. However, upon going through the bail application it is noticed that this fact is missing in the bail application. At same time I.O. also submits that still investigation is going on and statement of the witnesses is yet to be recorded. However, in the say Exh.2 filed by the Investigation Officer he has not specifically mentioned that yet statements of all witnesses are recorded. In the reply I.O. submits that if accused is released on bail he may put pressure upon the prosecution witnesses. This fact mentioned by the I.O. in the say Exh.2 itself goes to show that statement of all the prosecution witnesses is not recorded. In the other words it can be said that still process of effective investigation is going on.

8. Coming towards the ruling relied upon by the accused, in case of *Khemlo Sawant* cited *supra* in the said case co-accused was absconding therefore bail was refused. However, Hon'ble High Court observed that this cannot be a sufficient ground to refuse bail especially when principal offender has not been booked and applicant is merely charged of abatement. So far case in hand is concerned, the applicant/accused is the main accused and at relevant time was serving as a Police Sub-Inspector at N.M. Joshi Marg Police Station. Therefore, with due respect the ratio laid down in the ruling cited *supra* cannot be made applicable to the case at hand.

9. In the ruling *Bhagirathsinh Judeja* Their Lordships of Hon'ble Apex Court ruled that, for granting of bail only material considerations are whether the accused would be readily available for his trial and whether he is likely to abuse the discretion granted in his favour by tampering with the evidence. So for case at hand is concerned, in the reply Exh.2 I.O. specifically objected bail application on the ground that if accused is released on bail he may put pressure upon the prosecution witnesses. Taking into account role of the accused and the post occupied by him at the time of offence, there is every possibility that accused may put pressure upon the prosecution witnesses. Therefore, with due respect the ruling cited *supra* does not come to the help of accused.

10. As regards last ruling *Mohan Raikwar* cited *supra* the accused of that case was charged for an offences punishable u/sec.323, 294, 506 II of Indian Penal Code. However, in the case it hand accused is charged for an offences punishable u/sec.7 and 7A of Prevention of Corruption Act which is more serious. Therefore, acts of the present case are altogether different than the involved in the ruling *cited supra*.

Hence, the said ruling cannot be made applicable to the case at hand.

11. Thus, on the strength of aforesaid reasons and discussion I find that absolutely there is no change in the circumstances which would entitle the accused for grant of bail. Hence, I do not find any substance into the contentions raised by the applicant/accused. Taking into account ongoing investigation, I am of opinion that it is not fit case to enlarge the accused on the bail. Hence, I passed following order-

ORDER

1. Bail Application No.188/2022 is hereby rejected.

2. Bail Application No.188/2022 stands disposed off.

Date: 01.04.2022



(Deepak D. Almale)
Spl. Judge ACB (BMU)
City Civil & Sessions Court
Gr. Bombay.

Directly dictated on Com :- 01.04.2022.
Checked on :- 01.04.2022.
HHJ signed on :- 01.04.2022.

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

UPLOAD DATE AND TIME : 01.04.2022, 05.36 pm.
NAME OF STENOGRAPHER : Mr. Harshal D. Jagtap
(Stenographer Grade-I)

Name of the Judge (With Court Room No.)	HHJ Deepak D. Almale C.R. No.45
Date of Pronouncement of JUDGMENT/ORDER	01.04.2022
JUDGMENT/ORDER signed by P.O. on	01.04.2022
JUDGMENT/ORDER uploaded on	01.04.2022