

BAIL ORDER(2) 18/7/2013

Exh.555 in RCC No.573/2002 (dt.18.07.2013)

This is an application for bail filed by accused no.1 Sanjay Agrawal under sections 420, 409 and 437(6) of Cr.P.C. This application is opposed by the learned counsel for the prosecution as per say dtd.12.7.2013. Heard both sides through their respective counsel. Perused the record and proceeding. The application for bail filed by the applicant/accused at the stage when the proceeding was fixed for cross-examination of the witness after framing the charge.

2. The charge u/sec.420,409,406 r/w 34 of IPC framed on 20.9.2012 against the applicant/accused no.1 and 12 others. The applicant/accused no.1 implement as an accused being a director of Home Trade Limited Company. The proceeding instituted by the police at the instance of Special Auditor of Co-operative Society and registered crime no.110/2002 and 124/2002 dtd.26.4.2002 and 8.5.2002 respectively. The muddemal reported as seized.

3. Perused the record and proceeding. The applicant/accused directed to release on bail of Rs.5 lac by order dtd.13.8.2002. However, the same has been modified as per order below Exh.99 dtd.17.4.2013 and directed to release on depositing cash below bond of Rs.50,000/- . Accordingly, the cash bail deposited and issued released warrant to Jail Authority as per Exh.102.

4. However, the accused was found in other cases in different jail and therefore production warrant issued to Surat Jail-Gujrat State.

5. In this particular case 10 witnesses are examined and remaining 24 out of 34 to be examined in future. The auditor is under cross-examination. The accused is involved in near about 17 cases filed against him.

6. Thus from 1.9.2003 to 29.11.2006 the accused was found in jail at Central Prison Surat in different cases including crime nos.110 and 124.

7. Perused the maximum punishment of section 420, 409 and 406 r/w 34 of IPC. The huge amount involved in this case. The alleged misappropriation, criminal breach of trust and cheating are the charges against the accused and the amount of Rs.25,27,7283.33 involved in the present case.

8. It is submitted by learned counsel of accused that there were near about 17 cases in different courts against the applicant/accused. Considering the period of under trial of the accused in this case the provision of section 437(6) of



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Cr.P.C. amended now applicable.

9. From the record, it appears that the accused surrendered on 15.9.2012 but he had taken into custody and the interim bail application was granted. However, thereafter bail application was rejected and the trial was fixed for recording the evidence since from 3.10.2012. The witness was reported as out of India till November 2013. Thus, the accused is found in default of the punishment prescribed maximum more than the half limit of punishment.

10. The learned counsel of applicant/accused placed in my hand the reported citation Tarkeshwar Goraknath Pandey V. State of Maharashtra reported in 2012(1) Bom.C.R.(Cri.) 569. The Hon'ble Bombay High Court observed in the above reported citation that the trial not concluded within the period since from taking the evidence then the provision of section 437(6) of amended Cr.P.C. is applicable and the accused is entitled for bail.

11. Considering the above statutory period u/sec.437(6) of Cr.P.C., the accused is found entitled for bail even at this stage. Hence, the following order.

The application for bail filed by accused no.1 Sanjay Agrawal is hereby granted with certain conditions as under-

- i) The applicant/accused be released on executing fresh P.R.bond and surety bond of Rs.5 lac.
- ii) The applicant/accused shall furnish his permanent residential address and undertake to inform about any change in future of his residential address.
- iii) The applicant/accused shall not tamper the prosecution witnesses by any way.
- iv) The applicant/accused shall not leave India with prior permission of this court.
- v) The recent photographs of applicant/accused be placed on record.

(C.W.Meshram)
Chief Judicial Magistrate,
Wardha, dt.18.07.2013.

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