IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAILAPPLICATION NO. 1622 OF 2014

Shri Harsh Kuntesh Parekh ... Applicant / Accused
vs.
The State of Maharashtra ... Respondents

Mr. A.H.H.Ponda a/w Mr. Dhrutiman S. Joshi,Advocate for the applicant
Mr.S.S.Pednekar, APP, for the respondent-State.
P.I. Katkar I.O. Presently attached to Dongi Police Station.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 22nd December, 2014.

P.C.

This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 14.10.2013 in Crime No.396 of 2013 registered at Khar Police Station for the offence punishable under Sections 420, 465, 467 468, 471 read with Section 34 of Indian Penal Code. The investigation is completed and charge-sheet is filed.

2. The case of the prosecution is that one Nidhi Shriyan lodged a report at the police station on 12.9.2013 alleging therein that she was residing with her sister Swati. Their father had expired. The properties of their father were to be equally inherited between the two sisters. That the flat belonging to her father situated at Yashodeep Apartment was sold for consideration of Rs.3,40,00,000/-.

Each of the sisters had got Rs.1,70,00,000/-. The said amount was deposited in Bank of Baroda at Santacruz Branch and Syndicate Bank at Khar. It is alleged that the present applicant happens to be a friend of the elder sister of the complainant. The complainant had also received Debit Card from Bank of Baroda. According to the complainant, she had realized in the 3rd week of September, 2013 that the total amount of Rs.1,07,58,000/- from Bank of Baroda were misappropriated without her knowledge. She has given details of the said mounts and it appears that the said amounts were withdrawn, transferred and obtained by various persons. According to her, an amount of Rs.60 lakhs was transfered in the name of Swati i.e. her elder sister. Rs.88,000/- to one Sudarshan Nair, Rs.65,000/- to the present applicant. Rs.11 lakhs to be issued to SELF but withdrawn by the present applicant. Rs.30 lakhs to mother of the applicant and Rs.5 lakhs by a cheque which was drawn on SELF but withdrawn by the present applicant. According to the complainant, her sister and her friend ie.. the present applicant had forged her signatures. On the basis of her reports, Crime was registered. Investigation was set in motion.

3. The papers of investigation would reveal that an amount of Rs.62,50,000/- was transferred from Syndicate Bank to Bank of Baroda in the account of the Bank. The investigating officer has recorded the statement of Sudarshan Nair and he has specifically stated on instructions from both the

sisters and had undertaken the work of wiring, painting, etc. and had received an amount ocf Rs.83 lakhs by cheque. That the panchnma conducted on 10.10.2013 would reveal that on the chque dated 8.11.2011, the complainant had withdrawn an amount of Rs.65,000/- in cash from Bank. The cheque dated 5.6.2012 was drawn on SELF, but the receiver was shown as the present applicant and on 27.8.2012, there was transfer by cheque of an amount of Rs.5 lakhs in the account of the present applicant and Rs.30 lakhs were transferred by cheque into the joint account of Hina Parekh and the present applicant.

4. The learned counsel for the applicant rightly submits that in view of this, there is no material whatsoever to indicate that the present applicant has committed an offence punishable under Sections 420, 465, 468 or 471 of IPC The Investigating Officer has obtained the specimen signatures of all the accused, including the elder sister of the complainant. It is submitted that in fact, the moment the amount is credited or debited or withdrawn, the complainant would receive a Bank account alert from the respective banks at her cellphone number and therefore she cannot feign ignorance for the said transfer or withdrawal of the amounts. According to the learned counsel, all the offences are triable by the Magistrate. There is no plausible explanation for the inordinate delay in approaching the police and lodging the first information report. The co-accused Swati, who happens to be the elder sister of the complainant, has been enlarged

on bail by this Court.

5. Taking into consideration the fact that the applicant has been in jail fore more than one year, and that the offences are triable by the Court of Magistrate, this Court is inclined to grant bail.

O R D E R

(i) The application is allowed. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to the concerned police station on first Sunday of every month for a period of six months between 10 a.m. to 12 noon.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)