

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1261 OF 2014

Satish Bijendra Kumar Chaturvedi	...	Applicant
vs.		(Orig. accused No.1)
The State of Maharashtra	...	Respondent

Mr. S.V.Marwadi a/w Mr. M.D. Mali, Advocate for the applicant
Ms.P.P.Shinde, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 6th January, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 3.12.2013 in Crime No.136 of 2013 registered at Ichalkaranji Police Station, Kolhapur on 25.11.2013. The investigation is completed and charge-sheet is received by the applicant on 4.4.2014. The applicant has been charge-sheeted for the offences punishable under Sections 420, 417, 419, 465, 468, 471 of Indian Penal Code and Sections 65 and 66(c)(d) of Information Technology Act, 2000.

2. It is the case of the prosecution that on 25.11.2013, Rajendra S.Mirje working as Finance Manager of Dindayal Magasvargiya Suthgirmi (Society), Islampur, filed a report at the police station that the Society is engaged in purchasing cotton and the said Society runs a spinning mill. On 25.11.2013, the

complainant had enquired about the balance in the account. Ashok Badade working as a Cashier enquired with Tamil Nadu Mercantile Bank, Ichalkaranji Branch about the balance. He was informed the balance was Rs.26,87,564/-. The spinning mill was informed that on 19.11.2013, 20.11.2013, 21.11.2013 and 22.11.2013, the amounts were transferred vide RTGS on the basis of the e-mail ID furnished to the Bank. The Cashier suspected a foul play and enquired further. It was apparent on the face of the record that the Society had not sent any e-mails nor any demand was made. It was revealed that on 19.11.2013, an amount of Rs.30 lakhs was transferred in the account of Om Enterprises, the proprietor being Pankaj Jain. On 20.11.2013, Rs.35 lakhs were transferred in HDFC Bank Ltd. Udaipur in the account of Sunil Gupta. On 21.11.2013, Rs.35,30,000/- was transferred in the account of Ejajul Seth at Calcutta and on 22.11.2013, Rs.25 lakhs were transferred in the account of Vimal Foundation. The amount of misappropriated amount was Rs.1,25,30,000/-. In the course of investigation, it was revealed that the present applicant had posed as Sunil Gupta and had filed forged Pan Card, telephone bills, IDBI Bank extract and other relevant documents for opening an account in the Bank in the name of Sunil Gupta. Hence, the applicant was arrested. It is apparent that he has been a beneficiary of the amount of Rs.35,30,000/-.

3. The learned counsel for the applicant submits that the applicant has been in custody for about more than one year. The offences are triable by the Court of Magistrate and hence the applicant deserves to be enlarged on bail. It is further submitted that there was no reason for the applicant to know the e-mail ID of the Spinning Mill Society. According to the learned counsel, there has been conspiracy with the Bank officers and that the applicant has not been charge-sheeted for the offence punishable under Section 120B of IPC. According to the learned counsel, the accused No.3 is absconding. That the beneficiary Vimal Foundation was never arrested. According to the learned counsel, the applicant therefore deserves grant of bail.

4. The economic offence, like the present one, of transferring the amounts directly from one Bank to another by hacking e-mail ID and misappropriated the amount in fake accounts has become rampant. Hence, the accused does not deserve any sympathy from the Court. Moreover, the applicant is alleged to have forged and fabricated fake documents in the form of Pan Card and other relevant material to pose as Sunil Gupta. The amounts have been transferred in a fictitious accounts. The applicant-accused therefore, does not deserve grant of bail at this stage. It is informed across the Bar that in the present case, charge has been framed. In view of this, the applicant does not deserve

grant of bail as the possibility of winning over the witnesses cannot be ruled out. Hence, the applicant being sans merit, stands rejected.

5. The observations made hereinabove are restricted for deciding the application under Section 439 of Cr.P.C. and the learned Magistrate shall not be influenced by the same at the time of trial.

(SMT.SADHANA S.JADHAV, J.)