

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2327 OF 2014

Chandrabhas Maruti Arolkar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Nitin Pradhan a/w. Mr. Ameeta Kuttikrishnan, advocate for Applicant.

Mr. R.V. Newton, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 15, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

3 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 3/9/2014 in Crime No. 104 of 2012 registered at Vishrambaug Police Station for offence punishable under Section 403, 406, 409, 417, 420 read with Section 34 of the Indian Penal Code.

4 It is the case of the prosecution that the applicant herein was director of Lord Balaji Cooperative Bank, Madhavnagar, District-Sangli since year 1998.

5 On 30/5/2012 Savlaram Poojari who happens to be the auditor had conducted the audit of the said bank for the period between 1/4/1998 to 31/3/2003. The auditor had observed that the relatives of Chairman, Vice Chairman and other directors of the bank had received benefits from the bank. Their loan proposals were sanctioned and loans were disbursed without taking any collateral security. They were unsecured loan. There were audit objections. Auditor had observed that there was disbursement of loan of Rs. 1,35,35,501/-. It was sanctioned and disbursed without following due procedure of law. Hence, it is alleged that the directors had misappropriated funds and had also committed criminal breach of trust of the account holders of the said bank. Investigation was set in motion on 29/11/2014.

6 Perused the papers of investigation. It appears from the record that the applicant herein had been appointed as a vice Chairman in the year 2002. It was only at that stage, he had actively observed the functions of the bank. He had therefore, resigned from post of vice chairman and he had also tendered his resignation as director on 16th April, 2002. The said resignations were kept in abeyance and no action was taken thereupon. The applicant was therefore, constrained to approach the Reserve Bank of India as well as the District Debt Recovery Cooperative Society, Maharashtra and had brought it to the notice of the said authority that there are several lacunas in the functions of the bank. He had specifically brought it to the notice of the authorities that the chairman and directors and their relatives and staff members received huge loan by violating R.B.I. directions and therefore, he had requested the concerned directors, chairman and staff to rectify the procedure. However, according to him, no heed was paid to his objections and therefore, he chose to resign from the directorship as well as from the vice chairmanship of the said bank. It

was only upon directions of the DDR and the RBI that his resignation was accepted.

7 The learned Counsel for the applicant submits that another director Dr. David against whom similar allegations were levelled has been granted pre-arrest bail by this Court (Coram : K.U. Chandiwal, J) by an order dated 17/7/2012. It was observed by this Court that Dr. David had also complained R.B.I. And District Deputy Registrar. The case of the applicant is the same as the case against Dr. David and therefore, the learned Counsel for the applicant prays that the applicant be enlarged on bail by virtue of doctrine of parity.

8 Learned APP has vehemently objected to the grant of bail to the present applicant, as according to the learned APP, the applicant was officiating as vice chairman of the said bank during the audit period and has thereafter resigned. According to the learned APP, resignation was accepted at the end of the audit period.

9 Upon perusal of the minutes of the meeting dated 29/1/2002 in which unsecured loans were sanctioned in favour of the relatives of the directors and the amount was misappropriated, it is clear that the minutes of the meeting would show that 11 directors were present in the said meeting including the chairman and the vice chairman. However, it is pertinent to note that the said minutes are not signed by any of the directors, more particularly, the present applicant. Minutes of the said meeting also does not show that proposer and second to the said proposer had signed the minutes of the said meeting. Needless to say that the applicant has prima facie made out a case for grant of bail.

10 It is made clear that chairman, manager and any other accused shall not claim parity with the present applicant since the applicant has been granted bail only after considering the allegations levelled against him. It is apparent on the face of the record that the applicant had complained about the misconduct of the chairman and the manager and hence, they shall not claim parity.

11 The observations made hereinabove are prima facie in nature. The same shall not be considered while deciding the application for discharge or for quashing of FIR or at the time trial.

12 Hence, following order is passed.

ORDER

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

13 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)