IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 396 OF 2015

M/s. Kirti R. Shah Shares &
Stock Broekers Pvt.Ltd. ... Applicant
vs.
Central Bureau of Investigation,
BS & FC Branch. & Anr. ... Respondents

Mr. Akhilesh Dubey a/wMr. A.A.Khan a/w Mrs. Ritika Gupta i/b. Law Counsellors, for the applicant.
Mr. S.K.Shinde a/w Mr. Y.M.Nakhwa for respondent No.1.
Mr.Arfan Sait, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 9th October, 2015.

P.C.

Rule. Rule returnable forthwith with consent of the parties. Heard respective counsel.

2. The petitioner herein questions the correctness and validity of the order dated 5.3.2015.

3. It appears from the records that the applicant herein is a Private Limited Company dealing in shares. That the directors of the company are Ketan Shah and Kirti Shah. The CBI was carrying out investigation in Case

No. RCBSM3024E000/CBI/BS&FC/Mumbai under Section 120B read with Sections 419, 420, 467, 468 and 471 of IPC read with Section 13(2) and 13(1) (d) of Prevention of Corruption Act. It is a matter of record that the present applicant is an accused in the abovementioned case. The applicant-company is involved in the business of trading with stocks and shares since the year 1949. That one Mr. Jatin Nanji Chheda was their regular client who was purchasing and selling shares through the applicant-company since the year 2013.

4. The learned counsel for the applicant submits that the applicant has sufficient documentary evidence to show that Mr. Jatin Chheda was purchasing and selling shares to the applicant-company. It is submitted that on 24.2.2014, Mr. Jatin Chheda had purchased 1,50,000 shares of M/s. Midland Polymers Ltd. for an amount of Rs.85,15,673/-. That the applicant had received the full amount in his bank account from Mr. Jatin Chheda. The learned counsel for the applicant, at this juncture, submits that Mr. Jatin Chheda is also not an accused in the aforementioned case. The trade of shares between Jatin Chheda and the present applicant company were allegedly not objectionable. It is submitted that the said transactions were legal transactions.

5. By a letter dated 18.7.2014 issued by the Bank of India, the applicant herein was informed that a criminal case has been registered against General Manager of Dena Bank and others and the account of the applicant have been freezed.

6. The learned counsel for the applicant submits that the receipt of the said intimation had come as a shock to the applicant company as the statement of the applicant was not recorded prior to freezing of the accounts, no notice was issued to him, the reason for freezing the accounts were never stated. It was upon enquiry that the applicant had learnt that there was some fraud played upon the Bank by Jatin Chheda, Asha Sanjay Shah and Harsh Shah. The main accused in the present case are Vimal Barot, who was acting as the Senior Vice-President of Shoman Group and Pritam Nagarkar who was the General Manager of Dena Bank. It is alleged that they had opened several fictitious accounts.

7. The learned counsel for the respondent-CBI submits that some of the amounts received in the accounts of the present applicant were transferred from fictitious accounts opened by Vimal Barot. However, at

present prima facie, there is no material to show that the account operated by the present applicant was opened by Vimal Barot or that the applicant had received any amount directly from Vimal Barot. Accounts were freezed and the applicant had filed an application before the Special Judge seeking the relief of de-freezing the accounts. The learned Special Judge has observed that the main culprit happens to be Vimal Barot. A fraud has been played upon the Bank by Vimal Barot and Nagarkar. The amount received by the present applicant was from Mr. Jatin Chheda in whose name the applicant-company had purchased the shares. It is apparent on the face of the record that the applicant, at least prima facie, as on today, is not involved in the transactions or the fraud committed by Vimal Barot or Nagarkar. In view of this, the application deserves to be allowed. The order passed by the Special Judge, CBI, directing de-freezing of the account of the company that the applicant shall give a bank guarantee of Rs.75 lakhs is quashed and set aside. The application is allowed. The CBI is directed to de-freeze the account of the present applicant which is operated in Bank of India, Stock Exchange Branch – Account No.008620110002265, 008620110000014 and No. 008620100011612 within one week from today.

8. The learned counsel for the applicant, upon instructions, fairly submits that the applicant would co-operate with the investigating agency to the best of their capacity.

Application is allowed in the above terms. Rule is made absolute.

(SMT.SADHANA S.JADHAV, J.)