

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1031 OF 2015

Sunil Kumar Naveenchandra Kahar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Ms. Anjali Patil, advocate for Applicant.

Mr. S.K. Shinde and Mr. Y.M. Nakhwa, APP for C.B.I.

Ms. S.S. Kaushik, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 13, 2015

P.C.:

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

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 7/10/2014 in
FIR No. RC BSM 2014 E 0002 registered with C.B.I., Mumbai Branch
for offence punishable under Section 409, 420, 468, 471, 120B of the

Indian Penal Code and under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act, 1988.

3 It is the case of the prosecution that one Sushovan Banerjee, Chief Vigilance Officer of the Jawaharlal Nehru Port Trust(JNPT), Nhava Sheva, lodged a report alleging therein that the accused persons namely (1) Ms. Suja Koshy, a Branch Manager of Oriental Bank of Commerce, (2) M/s. Padmavati International, (3) Rajesh N. Bangawala, Proprietor of M/s. Padmavati International, (4) V.P. Thakur and other unknown persons had transferred a sum of Rs. 110 Crores on 12/2/2014 and a sum of Rs. 70 Crores on 17/2/2014 to the Oriental Bank of Commerce, Malvani, Malad Branch, Mumbai and had siphoned of the said amounts. It is the case of fraudulent transfer on the basis of forged letters allegedly signed by Rajesh Bangawala and the said amounts were transferred from the account of Padmavati International, which was further siphoned of by the alleged accused persons.

4 Without going into merits of the matter, the learned Counsel for the applicant has prayed for bail on the ground of parity. The present applicant happens to be the nephew of Rajesh Bangawala who was arrested and has been enlarged on bail under Section 167(2) of the Code of Criminal Procedure, 1973. That the co-accused Vipin Thakur has been enlarged on bail by this Court (Coram : A.M. Thipsay, J) vide order dated 8th August, 2014. That the co-accused Ramesh Prabhakar is enlarged on bail by this Court (Coram : Revati Mohite Dere, J) vide order dated 8th May, 2015. Accused Tejalkumar Navinchandra Panchal is enlarged on bail by this Court (Coram : Revati Mohite Dere, J) vide order dated 27th April, 2015. The learned Counsel for the applicant submits that all the said three persons are the principal accused. It is a matter of record that according to the prosecution, the RTGS forms were signed by Rajesh Bangawala.

5 According to the learned Counsel for the applicant, there is no incriminating material against the applicant which would warrant further incarceration.

6 Taking into consideration the submission that the applicant is claiming parity with four co-accused, this Court is inclined to grant bail. It appears from the record that the investigating agency after considering the gravity of the offence has filed an application under Section 173(8) of the Code of Criminal Procedure, 1973 and is in the course of further investigation. In view of this, trial may not commence in the near future and therefore, the applicant would be entitled to be enlarged on bail. However, it is made clear that co-accused Ms. Suja Koshy or any other accused shall not claim parity with the present applicant.

7 The abovesaid observations are prima facie in nature and are restricted to decide the application under section 439 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial. The learned Trial Court shall decide the same on its own merits in accordance with law uninfluenced by the above observations.

8 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 1,00,000/- with one or two local sureties from Mumbai and Thane in the like amount.
- (iii) The Applicant shall report to the office of the CBI, BS & FC, Mumbai, on every Saturday from 11.00 a.m. to 1.00 a.m., till the conclusion of the trial ;
- (iv) The applicant shall inform his latest place of residence and mobile contact number, within one week from his release and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the office of the CBI, BS & FC, Mumbai, ;
- (v) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case;
- (vi) The Applicant shall not leave Mumbai and Thane District, without the permission of the Trial Court ;

(vii) An undertaking to the aforesaid clauses (iii), (iv), (v) and (vi), shall be filed by the Applicant, in the Trial Court, within two weeks after his release ;

(viii) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)