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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1826 OF 2014

Ramesh Prabhakar ... Applicant
V/s.
Central Bureau of Investigation and Anr. ... Respondent

Mr.Subhash Jha a/w Ms.Rishita Jain i/b Mr.Akhilesh Jain, for the Applicant.
Mr.H.S.Venegaokar, for the Respondent No.1 – CBI.
Mr.S.H.Yadav, APP for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.
DATED : 8th MAY, 2015.

P.C.

1. Heard the learned counsel for the Applicant, learned Additional Public Prosecutor for the CBI and learned APP for the Respondent – State.

2. By this application, the Applicant seeks his enlargement on bail, in connection with F.I.R.No.RC BSM 2014 E 002 registered with the CBI BS and FC, Mumbai Branch, for the alleged offences punishable under Sections 409, 420, 468, 471, 120-B of the Indian Penal Code and under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

3. The complainant is the Chief Vigilance officer of the Jawaharlal Nehru Port Trust (JNPT), Nhava Sheva, Taluka Uran, Navi Mumbai. It is alleged that one Rajesh N. Bangawala, proprietor of M/s.Padmavati International, Suja Koshy, a Branch Manager of Oriental Bank of Commerce, Vipin Thakur, a Chartered Accountant and other unknown persons, defrauded JNPT to the tune of Rs.180 crores, by transferring the said amount from JNPT to Oriental Bank of Commerce and from Oriental Bank of Commerce to M/s.Padmavati International and from there to other accounts. Ms.Suja Koshy was the Branch Manager of the Oriental Bank of Commerce, Malvani, Malad Branch, Mumbai, at the relevant time and the present applicant was the ex-employee of the said bank. According to the prosecution, an amount of Rs.180 crores was fraudulently transferred to the account of M/s.Padmavati International in Malvani, Malad Branch, on the basis of two forged and fraudulent letters dated 12th and 17th February, 2014, purportedly issued by the authorised signatories of the JNPT. It is further alleged that the aforesaid amount was further transferred to several accounts from the account of M/s.Padmavati International and the entire money was thereafter siphoned off by the accused persons, pursuant to a criminal conspiracy. The present applicant was arrested in the course of investigation on 28th

March, 2014.

4. Learned Counsel for the Applicant contended that out of an amount of Rs.180 crores, Rs.113 crores have been secured and with regard to the balance 40 crores odd, investigation is in progress. He submitted that the CBI has filed an application under Section 173(8) of Code of Criminal Procedure for further investigation. He submitted that co-accused – Vipin Thakur and Tejalkumar N. Panchal have been enlarged on bail by this Court vide orders dated 8th August, 2014 and 27th April, 2015 respectively. He submitted that the investigation is likely to take time and that the applicant has been in custody from the date of his arrest i.e. 28th March, 2014. According to him, a substantial amount has already been secured by the prosecuting agency. Learned Counsel for the applicant submitted that the applicant had retired from the Oriental Bank in 2010 with an unblemished record.

5. Learned Additional Public Prosecutor for the CBI, opposed the bail application. He submitted that the co-accused - Rajesh Bangawala, in connivance with the present applicant and other accused have defrauded JNPT for an amount of Rs.180 crores. He submitted that the material qua

the present applicant, is that despite the fact that he had retired from the bank, his presence was found in the Bank at the relevant time ; secondly, the applicant had gone to JNPT along with Suja Koshy (original accused no.1) to convince the officers of the JNPT to invest with Oriental Bank of Commerce and had also negotiated for a higher rate of interest. He submitted that the applicant had received an amount of Rs.2 crores from which he had made payment to a builder for purchase of flat at Kochi in the name of co-accused - Suja Koshy. He submitted that out of the said amount, Rs.7 lacs were paid in cash by the applicant to the said builder. He submitted that after the remittance of Rs.110 crores and Rs.70 crores was done, on 12th and 17th February, 2014 a letter dated 26th February, 2014, was dictated by the applicant to the accused no.1 – Suja Koshy and is in the writing of the present applicant, pursuant to which the TDR (Term Deposit Receipt) was created. He submitted that the applicant does not have any permanent place of residence and therefore the possibility of securing his presence during trial is difficult. He does not dispute the fact, that the other co-accused – Vipin Thakur and Tejalkumar N. Panchal have been enlarged on bail and the said orders have not been challenged by the prosecution.

6. Perused the papers of investigation. It appears that on 12th February, 2014, JNPT had transferred an amount of Rs.110 crores by RTGS mode to Oriental Bank of Commerce, Malvani, Malad Branch for investing the same in TDR (Term Deposit Receipt). Subsequently, again on 17th February, 2014, JNPT transferred Rs.70 crores by RTGS mode to Oriental Bank of Commerce, Malvani, Malad Branch for investing the same in TDR. It also appears that two fax messages were received by Suja Koshy, purported to be send by JNPT requesting that the said amount of Rs.110 crores and 70 crores be transferred in the account of M/s.Padmavati International and the other accounts, on the basis of fax messages. It is pursuant to the said fax messages that the said amount of Rs.180 crores was transferred into the account of M/s.Padmavati International and from there to other companies. It appears that the applicant used to visit the bank, even after his retirement as is evident from the statement of some of the witnesses to meet Suja Koshy. Though an amount of Rs. 2 crores is alleged to have been received by the applicant, the same is not reflected in the bank statements of the applicant. Admittedly, out of the sum of Rs.180 crores, Rs.113 crores is secured and with regard to the balance amount, investigation under 173(8) is in progress, to trace the funds which are parked outside the

country. As far as purchase of a flat in Kochi is concerned, an amount of Rs.7 lacs is alleged to have been paid by the present applicant to the builder. The main co-accused - Rajesh Bangawala has been enlarged on bail under Section 167 of the Code of Criminal Procedure and the other co-accused Tejalkumar Panchal has also been enlarged on bail by this Court.

7. Considering the aforesaid facts and the fact that the applicant has been in custody since the date of his arrest ; that investigation is complete and charge-sheet in the said case has been filed, and the fact that the trial is not likely to commence in the immediate near future, in view of the investigation under Section 173(8) and that the other co-accused have also been enlarged on bail, the Applicant deserves to be enlarged on bail, on the following terms and conditions ;

ORDER

i) 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 in the like amount ;

ii) 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 ;

iii) 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, ;

iv) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case;

v) The Applicant shall not leave Mumbai and Thane District, without the permission of the Trial Court ;

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

vii) 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.

8. The Application is allowed and disposed of in above terms.

9. Needless to observe, that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.

10. Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)