IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPEALLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 552 OF 2015

Akhilesh Kumar Jain .. Applicant
Versus
The State of Maharashtra .. Respondent

Mr. Subir Kumar, Advocate for the Applicant.
Ms. Rutuja Ambekar, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 22nd NOVEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No.409 of 2014 registered with non-applicant for the offences punishable under sections 465, 467, 468, 471, 420, 120B of the I.P.C.

2 The learned counsel for the applicant while trying to make out the case for grant of bail would urge that the applicant is a senior officer of a nationalized bank and as such is a public servant. It was submitted that the factual matrix which has prompted the complainant to add applicant an accused speaks of fraud practice by an individual both on the bank and the Sant Rohidas Charmakar Development Corporation. According to him, the said statutory corporation of the State Government was in excess of amount to the tune of about Rs.9 crores and as such through an common acquaintance of the one of the senior officer of State Government decided to keep the same in fixed deposit in Vijaya Bank. Instead of delivering the Fixed Deposit receipts in favour of the said Corporation same were delivered to other co-accused and replica (duplicate) thereof were

delivered to the corporation officer. Subsequently the accused persons in conveyance with the bank officer has open an account in the name of one Mr. Bava and further applied for the cash credit facility against the fixed deposit receipts of said corporation through an independent account. As such the bank sanctioned the cash credit facility of 8.10 crores which amount was diverted to the account of individuals which are managed by the co-accused. The prosecution while impleading the present applicant as an accused based on the investigation papers has stated that the applicant being senior officer was instrumental in helping the co-accused for getting delivery of original receipts of the fixed deposit which should have been delivered to statutory corporation and facilitated co-accused to open the bank account in absence of an individual, sanctioned the cash credit limit in favour of the corporation though the corporation has never applied for the same and the funds out of said cash credit account were symphoned of with the help of accused applicant to the account of individual.

3 While trying to make out case for grant of bail the learned counsel for the applicant strenuously urge that the applicant is under protection of this Court since 18.04.2015 for almost one and half year. The applicant has co-operated with the investigation agency and as the entire offence is based on documents, his custodial interrogation is not necessary. In addition, the learned counsel for the applicant would urge that while processing the request for making fixed deposit in the name of the Corporation, handing over the original receipts to the Corporation, the opening of the account of one Bava through which account amount was diverted and processing the prayer (which was never made) on the part of the corporation for granting cash credit limit against the fixed deposit, the applicant has hardly any role to play. According to him, at the most, the

conduct of the applicant could be termed as negligent however, there is no criminal motive could be attributed to the applicant in the commission of crime in question. The learned counsel has taken me through all the documents including that of the one which were considered for the purpose of processing the request for granting cash credit facility had submits that the entire act of the applicant is bona-fide and without any criminal motive. He submits that the applicant as such is entitled for bail in absence of any criminal antecedents.

3 Per contra, the learned A.P.P. submits that there is direct evidence available on the record to connect the applicant. During the investigation particularly the statement of the other bank officials speaks of the involvement of the applicant in the crime in question. She would urge that even though the applicant was on ad-interim protection from this Court for the period of 18 months, in view of availability of prima facie material about his involvement in the crime in question, there is need of the custodial interrogation for recovery of the public amount of about Rs.9 crores, the custodial interrogation is necessary and prayed for rejection.

4 Having bestowed by thoughts to the submission made and having perused the investigation papers what could be gathered from the record is the bank officials in clear terms has stated about the involvement of the applicant in the crime in question. The bank officials in clear terms has stated as regards how the applicant has permitted the co-accused to open an account in absence of such account holder and thereafter without any authorization from the corporation and in absence of the official request of the corporation has processed request of granting cash credit against the fixed deposit of Rs.9 crorers to the tune of Rs.8.1 crores.

5 It is also required to infer from the investigation that the moment the cash credit limit was sanctioned the major amount from the said account was diverted to the account of private individuals which act was carried out under the supervision of applicant.

6 What could be inferred from the entire conduct of the applicant is the applicant has facilitated the co-accused to get custody of original fixed deposit receipts which were made by the corporation, to the co-accused and further facilitate him in opening of the cash credit account.

7 Apart from above, the fact remains that the applicant is involved in an economic offence which is required to be viewed independently and the material available on the record depicts of his prima facie involvement.

8 Apart from the statement of the bank officials, there is also independent material available on the record to connect the present applicant to crime in question. While processing his request, statutory corporation of the State Government, for grant of the overdraft facility the applicant was not only negligent but prima facie appears to have been acted in aid of the other accused persons so as to facilitate them to play fraud.

9 In view thereof no case for bail is made out. Application is rejected.

10 At this stage, the learned counsel for the applicant submits that as there is an ad-interim protection operating in favour of the applicant since last 18 months, same be extended for a period of 6 weeks from today. The prayer is opposed by the learned A.P.P. In my opinion having regard to the fact that applicant is a public servant was under protection of this Court for a period of 18 months ad-interim protection is continued for a period of 6 weeks.

(N.W. SAMBRE, J.)