IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1204 OF 2016

Shri Ravikant Maruti Bagal ... Applicant
Vs.
The State of Maharashtra … Respondent

Mr. Pramod J. Pawar,Advocate for the applicant.
Mr. Y.M.Nakhwa, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 13th December, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 14.8.2015 in Crime No.102 of 2013 registered at Tembhurni Police Station, Dist. Solapur for the offences punishable under Sections 409, 420, 467 and 471 of the Indian Penal Code. The investigation is completed. The charge sheet is filed on 8.1.2016.

2. The learned APP, upon instructions,submits that charge is framed. The learned counsel for the applicant also admits that in the present case, the matter is transferred to the Court of Chief Judicial Magistrate at Solapur and the charge has been framed.

3. It is the case of the prosecution that the applicant herein was working as a Branch Manager of Solapur District Central Co-operative Bank, during the period 28.8.2010 to 12.2.2013. He was appointed as the Branch Manager of Tembhurni Branch. It is the case of the prosecution that the applicant had fabricated documents such as false vouchers, registers and had transferred an amount of Rs.10,73,50,000/- in his own savings account by debiting the said amount from the account of the head office. He had also transferred Rs.1 lakh in his personal account. The Bank had appointed V.S.Mehta & Co. as Chartered Accountant. The report of the Chartered Accountant dated 22.6.2013 indicated that the applicant had committed fraud in the Bank and had submitted a false report to NABARD dated 1.6.2013. The said accounts were scrutinized and it was revealed that the applicant had committed fraud. The applicant had proceeded on leave from 26.3.2013. The person holding temporary charge had observed that the reconciliation statements submitted earlier by the applicant were fictitiously shown as tallied. The Chartered Accountant had submitted a report as follows :-

> *"Shri R.M.Bagal has floated various companies & a Co-operative Credit Society and has been the Chairman/Managing Director of the said companies & society. He has the controlling*

interest in the said firms. As per the Bank's Service Regulations, clause No.27 (under the head Discipline), no staff member is allowed to be engaged him self in any commercial business. Moreover while opening such various accounts of the firms engaged in commercial activities no permission from competent authorities is held on record. During our scrutiny, we observed that various accounts have been opened with different Banks, the list of such companies & Co-operative Society, including his own accounts is as under :-

Sr.No.	Name of the Account	Name of the Bank & Branch	Account Type & No.	Shortcut used for the Account
1)	Aapli Co-op.Credit Society	SDCD Bank Tembhurni M.Y.Branch	Current A/c.No.79	ACCS-SDCC-TMY
2	Aapli Polysac Pvt.Ltd. (name later changed to Sai SamarthAgro Products & Polysack Pvt.Ltd.	SDCC Bank, Tembhurni City Brnch	Savings Bank A/c. No.15494	APPL-SDCC-TC
3	Shri Ravikant Maruti Bagal	SDCC Bank, Tembhurni City Branch	Savings Bank A/c.No.8687	RMB-SDCC-TC
4	Aapli Sugar & Ethnol Pvt.Ltd.	IDBI Bank	Not available	ASEPL-IDBI
5	Aapli Polysac Pvt.Ltd. (name later changed to) Sai Samarth Agro Products & Polysac Pvt.Ltd.	IDBI Bank	Not available	APPL-IDBI
6	Aapli Polysac Pvt.Ltd.	State Bank of India	Not available	APPL-SBI
7	Shri Ravikant Maruti Bagal	IDBI Bank	Not available	RMB-IDBI

Note: The shortcuts for the accounts mentioned above are invariably used in our reports.

Shri R.M.Bagal carried out various transactions through these accounts, from one account to other account some of which have been fictitious transactions; By indulging himself in, “Kite'Flying” operations by unauthorisedly purchasing the cheques of the accounts even when there was no sufficient balance in the account, also by showing fictitious purchasing of cheques issued from a non-existent account. As per the Bank's Policy, Branch Managers have no powers to Discount / Purchase the cheques except for those issued by the

Zilla Parishad, who are maintaining the accounts with Z.P. Branch."

The Chartered Accountant has narrated in detail the modus operandi of the applicant in misappropriating the amounts.

4. The learned counsel for the applicant submits that the case is based upon documentary evidence. All the documents are seized. That the self-acquired properties of the applicant have been attached by the Bank. It appears from the records that the Bankers also filed `lis pendens' application for restraining the applicant from creating third party interest in the said property and, therefore,according to the learned counsel for the applicant, he deserves to be enlarged on bail. It is also submitted across the bar that the applicant had no intention to commit fraud, but he was in need of funds and therefore he had transferred the said amounts to his own account. It is also submitted that the applicant had filed a loan proposal and before it could be sanctioned since he needed money he had transferred the amounts in his own account. It is pertinent to note that the applicant had used the public money for his own benefit. It appears from the submissions of the learned counsel that he had amassed a lot of properties, money and other valuables while in service with the Bank. The learned counsel submits that the applicant is willing to deposit the amount which was

misappropriated by him while in service.

5. Criminal prosecution is not a recovery process. However, the prosecution has to be taken to its logical end as it is an offence against the State and the consumers of the said Bank had to face financial difficulties because of the conduct of the applicant. This aspect needs to be taken into consideration mainly for the purpose that the account-holders of a Co-operative Bank are mostly farmers and the amount is to be used for maintaining and enhancing the agrarian economy and also for the survival of the farmers. The report shows that the act of the applicant is alarming as he had opened 7 accounts in his own name. It appears that by floating a firm – Aapli Co-op. Credity Society, Aapli Polysac Pvt.Ltd. which was then renamed as Sai Samarth Agro Products & Polysac Pvt.Ltd., Aapli Sugar & Ethnol Pt.Ltd. & Aapli Polysac Pvt.Ltd. The applicant was inducing the farmers to be the consumers of the said firm and had also cheated them.

6. In the facts of the present case, the report of the Chartered Accountant is admitted by the applicant. The possibility that the applicant would not only tamper with evidence but he may also win over the witnesses cannot be ruled out. It is submitted by the learned counsel for the applicant that the liberty of an individual is of paramount importance and

right to liberty is a fundamental right. However, in the facts of the present case, said submission would be unwarranted.

7. It is true that the liberty of an individual needs to be considered while passing an order under Section 439 of Cr.P.C. However, as on today, a liberal view taken in cases like the present one would not act as a deterrent to white colour crimes. Moreover, the liberty of an individual also needs to be tested and weighed vis-a-vis the interest of the society. It is in view of this that this Court is not inclined to grant bail. Moreover, the Court cannot be oblivious of the fact that in the present case, charge is framed i.e. trial has commenced. The learned Judicial Magistrate at Solapur is requested to expedite the trial and make an endeavour to record the substantive evidence of the witnesses, as far as possible, within ten months from the date of receipt of this order.

Application stands dismissed and disposed of.

(SMT. SADHANA S.JADHAV, J.)