IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1424 OF 2015

Appaso Shivaji Narvekar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Satyajeet Joshi for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 14th JULY, 2016

P.C. :

1. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 141 of 2015 registered with the Gadhinglaj Police Station, for the alleged offences punishable under Sections 406, 420, 467, 468, 470, 477A, 120B of the Indian Penal Code.

2. At the outset, it is necessary to mention that the aforesaid application along with other applications was heard by me and was reserved for orders. However, due to heavy board, orders could not be passed. Whilst going through the papers, I felt that it was necessary to obtain clarifications on certain aspects and hence, the matters were listed on Board for directions on 22nd June, 2016, for obtaining certain

clarifications. The applications were directed to be listed on 27th June, 2016. However, for two weeks, there was change in the assignment and the matters could not be taken up. Thereafter, learned A.P.P sought time on a few dates, as the Investigating Officer was not available and accordingly the matters have been listed again today.

3. I had heard learned Counsel for the applicant earlier as well as the learned A.P.P for the State. Today, I have again heard them.

4. According to the informant- Shri D. A. Chougule, retired Assistant Registrar, Cooperative Audit Department, Kolhapur, he conducted a re-audit of the said Bank, on the directions of the Deputy District Registrar, Cooperative Department, Kolhapur dated 27th January, 2015 and submitted his report on 14th August, 2015. He has stated that after obtaining legal opinion of the District Government Pleader, Kolhapur and after obtaining permission from the Deputy District Registrar, Co-operative Department, Kolhapur, he lodged a complaint, which was registered vide the aforesaid CR for the aforesaid offences as against the applicant and several others. According to the informant, the applicant

along with other co-accused misappropriated huge money from the said Bank and used the said amounts for their own benefit. He has alleged that an amount of Rs. 1331.32 lakhs was misappropriated by all the accused in furtherance of their common intention during the period 1st April, 1998 to 31st March, 2010. According to the informant, all the accused had duped the depositors of crores of rupees by committing criminal breach of trust and by disbursing loans and by illegally withdrawing huge amounts. The informant - Shri Chougule has in his complaint dated 24th August, 2015 listed the allegations as against all the accused under various heads, i.e. (i) loans taken on fixed deposits; (ii) misappropriation from the IDBI Bank Account; (iii) fraud in loan account of Matoshree RRamabai Ambedkar Backward Class Cooperative Textile Mill, Kodoli; (iv) misappropriation of bank account of Mastoshree RRamabai Ambedkar Spinning Mill; (v) fraud in cash; (vi) misappropriation in respect of 50% subsidy scheme given by the District Industrial Centre, Kolhapur, for small textile powerloom owners; (vii) issuance of No Dues Certificate; (viii) fake loan accounts; (ix) transaction from dormant/dead accounts, (x) misappropriation in respect of the Central Government Agricultural Debt and Interest Waiver Scheme, 2008; (xi) Fraud and misappropriation in Branch and Head Office

Account; and (xii) misappropriation in respect of the State Government Agricultural Waiver of Audit and Relief Scheme, 2009. The informant has specifically spelt out the role played by each of the accused in the complaint, under each of the aforesaid heads.

5. Learned Counsel for the applicant submits that the applicant was working as a Clerk in the headquarters of Shri. Shivaji Sahakari Bank Ltd., Gadhinglaj from the period 1998 to 2009. He submitted that in 2009, the applicant had resigned from the said Bank. Learned Counsel for the applicant submitted that the only allegation against the applicant is, that a sum of Rs. 10 lakhs was handed over by the said Bank, Kolhapur Branch, to the applicant, which was not deposited by the applicant in the Bank. He submits that the said transaction is alleged to have taken place on 31st July, 2007.

6. Learned Counsel for the applicant submitted that the applicant was working as a Clerk at the Headquarters at Gadhinglaj and not at the Kolhapur Branch, where the alleged amount was handed over and as such was not concerned with the same. He relied on the Cash Transit Register,

which is at page 105 of the application. He submitted that the said Cash Transit Register shows, from whom the amount was taken and to whom it was given. He submitted that the said Cash Transit Register does not record the name of the applicant, nor does it record his signature. He submits that on the contrary, the person to whom, the money was given is one Mahadeo Kesarkar, who has not been made an accused. He submits that the applicant had no occasion to go to Kolhapur and therefore, there was no occasion for him to receive the said amount of Rs. 10 lakhs. He submits that even otherwise, Section 88 notice has been issued to the applicant and if the applicant is found responsible for the misappropriation, the liability will be fixed or fastened on the applicant. He submits that for the aforesaid, the custody of the applicant is not required. He submits that even otherwise, the applicant had joined the investigation and as such, his custodial interrogation is not necessary, more particularly, when the documents are in the custody of the police.

7. Learned A.P.P opposed the bail application. She does not deny that the only allegation against the applicant is receipt of Rs. 10 lakhs, which was handed over by the Kolhapur Branch to him. She submits that

the said amount of Rs. 10 lakhs instead of being deposited by the applicant in the Gadhinglaj Branch, was deposited by him in the Matoshree Ramabai Ambedkar Magasvargiya Sahakari Sut Girni.

8. Perused the papers. The only allegation against the applicant is that he misappropriated the sum of Rs. 10 lakhs, which were meant to be deposited by the applicant in the Gadhinglaj Branch. *Pirma facie,* a perusal of the Cash Transit Register does not show the applicant's signature in the said Register nor is his name reflected in the same, showing that he had received the said amount. It appears that notice under Section 88 of the Maharashtra Cooperative Societies Act has been issued to the applicant, where the Authorised Inquiry Officer will fix the liability of the applicant, if he is found to have misappropriated the said amount of Rs. 10 lakhs.

9. Considering the nature of allegations, custodial interrogation of the applicant is not required and hence, the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount ;

(ii) The applicant shall report to the Investigating Officer of the concerned Police Station on first and third Saturday from 10:00 a.m. to 12:00 noon, for a period of three months from today, and thereafter as and when called, till the filing of the charge-sheet, whichever is earlier;

(iii) The applicant shall not tamper with the evidence, attempt to influence or contact the informant, witnesses or any person concerned with the case.

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.