

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2010 OF 2015

Deepak Omprakash Gupta ... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. A.H.H. Ponda i/b. Mr. Mandar Goswani, for the Applicant.
Mrs. P.P. Shinde, APP for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **30th MARCH, 2016**

P.C.:

. The application is moved for bail. The applicant/accused is facing charges for the offences punishable under Sections 409, 465, 467, 468, 471 and 420 of the Indian Penal Code and under Sections 66, 66(c) and 66(d) of Information Technology Act in C.R. No. 86 of 2014 registered with Khar police station, Mumbai. The offence is registered at the instance of one Shashank Mahajan, Chief Branch Manager, Axis Bank, Khar(w) Branch on 29th September, 2014. Thereafter the case was transferred to EOW, Unit-I, GB CB CID, Crawford Market, Mumbai.

2. It is the case of the prosecution that the applicant/accused was working as Senior Manager since 1st November, 2007. He was

dealing with with N.R.I. accounts. The particular procedure was followed when the money is transferred. The applicant/accused was using his personal Login ID and by a peculiar method, he withdrew and siphoned the money from many accounts and thus in total the amount of Rs. 6,63,65,188/- was withdrawn. When this was detected, the applicant/accused himself has deposited Rs. 2,20,32,101/- and repaid it to the customers. However, still Rs. 4,43,33,087/- are unpaid and thus he has committed fraud of the said amount. Hence, the offence was registered on 29th September, 2014. The applicant /accused was arrested on 27th January, 2015. Hence, this application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused has filed an undertaking that he is ready to deposit rupees One Crore without prejudice to his rights and contentions. The learned counsel further submitted that earlier at the time of hearing of the bail application, it was informed that the flat at Bhayandar can be sold and he is ready to repay its sale proceeds. Pursuant to this the learned counsel pointed out that an affidavit is filed by the Dinkar Jadhav, Police Inspector, EOW who has informed that the market price of the said flat is Rs. 89,49,000/- lacs

however, the loan of Rs. 14,50,000/- is due. He submitted that the applicant/accused is ready to pay rupees One Crore and shall deposit it within three months if the bail is granted. He further submitted that all the offences are triable by the Magistrate and the applicant /accused is in the prison since one year and two months.

4. The learned prosecutor while opposing the bail application, submitted that the applicant/accused has defalcated a huge amount and still Rs. 4,43,33,087/- is due from the applicant/accused. He is from Rajasthan and does not have roots in Maharashtra and likely to abscond if bail is granted.

5. Perused the first information report. The applicant/accused is facing charges of misappropriation and forgery. However, all the offences are triable by the Magistrate. The applicant/accused is ready to deposit rupees One Crore in the Bank. The trial before the Magistrate will not commence within 2-3 years considering the pendency before the Court. The applicant/accused is in prison since last one year and 2 months. Therefore, I am inclined to grant bail to the applicant by accepting the undertaking. With this, I

pass the following order:

- a) The bail application is allowed.
 - b) The applicant/accused be enlarged on bail upon furnishing PR. Bond in the sum of Rs. 1,00,000/- with one or two local sureties in the like amount.
 - c) He shall deposit Rs. 20 lacs out of one Crore in the bank before he avails the bail.
 - d) As per the undertaking given, he shall deposit Rs. 80 lacs within three months from the date of his release on bail.
 - e) He shall deposit his passport to the passport authority. This order is to be sent to the passport authority.
 - f) He shall make himself available and not to leave India without prior permission of the Court and attend all the Court dates regularly.
 - g) This bail is granted by accepting the undertaking.
 - h) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.
6. Bail application stands disposed of on above terms.

(MRS.MRIDULA BHATKAR, J.)