Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2471 OF 2014

Mohammed Fasiuddin Mohammed Imtiyazuddin ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Dinesh Tiwari a/w. Mikhail Dey i/b. Dinesh Tiwari & Associates, Advocate for the applicant.
Mr. Arfan Sait, APP for the State.
Mr. Sandeep More, P.I., Banking -I, EOW, Mumbai present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **13th April, 2016.**

P.C.:

This Application is moved for bail, as the applicant/accused is facing charges under sections 120B, 409, 419, 420, 465, 467, 468, 471 of the Indian Penal Code in C.R. No. 195 of 2014 at Matunga Police Station, Mumbai and the offence was subsequently transferred to Economic offences Wing at C.R. No. 58 of 2014. The offence is registered at the instance of Shankaran Ganesh, who is a member of South Indian Education Society on 3rd June, 2014.

2. It is the case of the complainant that one Anil Pawar approached the Institution and he represented him as a financial consultant and the manner in which he advised that if at all money is invested, the institution will get 1% interest more, i.e., around 10%. On this representation, the institution kept FDR of Rs.5 crores in Vijaya Bank. Anil Pawar, who is co-

accused did not handover the original fixed deposit of Rs.5 crores, but the applicant/accused along with co-accused gave coloured photocopy of the fixed deposit to SIES Institution. Thereafter, a fake account was opened on the basis of original fixed deposit of Rs.5 crores and overdraft facility was abused, as per the case of the prosecution, by Anil Pawar and applicant/accused . The amount of Rs.4.50 crores were siphoned in three bogus accounts, namely, Mahavir Enterprises, Concord Enterprises and Rushabh Sales Corporation during the period of 20th March, 2014 to 25th March, 2014. On 25th March, 2014, Rs.70 lakhs were received by the applicant/accused in his account of Central Bank of India, Juhu, Vile-Parle Branch.

3. It is the case of the prosecution that the Manager of Bank of India, Taloja Branch contacted the complainant and other office bearers of SIES College and made enquiry whether SIES has placed deposit with its Branch and also communicated that the SIES had taken overdraft facility of Rs.8.10 crores which is sanctioned by the bank. After this knowledge, fixed deposit receipts which were given by the co-accused was verified and it was found forged. All the transactions which were done in the name of the Institution were bogus and offence was registered on 3rd June, 2014. The applicant/accused was arrest on 2nd July, 2014 and since then the applicant is in custody. Hence, this Bail Application.

4. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. He is a businessman and he is also a producer. The applicant was in need of money for his business as he has suffered loss, so he came across one co-accused Vimal Barot, who promised him to finance some amount and pursuant to their talk, the applicant/accused received Rs.70 lakhs from Mahavir Enterprises. It is submitted by learned counsel for the applicant/accused that applicant/accused is noway concerned with the forged fixed deposit, using fixed deposit, creation of forged overdraft and siphoning the amount of Rs.4.50 crores in various accounts. The learned counsel submitted that the applicant/accused has redeposited nearly one crore in the overdraft account of SIES. Therefore, the applicant is to be released on bail.

5. Learned APP while opposing this Application submitted that the applicant/accused is a criminal who is working along with co-accused. There is a big racket which the Economic Offences Wing could unearth. Still the Economic Offences Wing is investigating, as there are many offences committed by the applicant/accused and co-accused. A particular modus operandi is used to cheat the banks or institution. The overdraft facility is abused by the applicant/accused and co-accused. Learned APP submitted that the role of the applicant/accused is not limited to only receiving Rs.70 lakhs but he is seen in the CCTV footage. He is the only

one who has received the original FDR. His signature is appearing in the register of the bank. The statement of the Bank Manager also goes against the applicant that he is one who has received the FDR. It is further submitted that the accountant Santosh Gadge, who is wanted accused, is accountant of this applicant/accused and he has submitted forged document and opened bogus overdraft account in the name of SIES. It is further submitted that the amount of Rs. 70 lakhs is received by the applicant/accused in his account of Central Bank of India, Juhu, Vile Parle Branch on 25th March, 2014 and whatever the amount of Rs.1 crores which is deposited by the applicant/accused in overdraft account is a bogus account and the number of this account is also collected by the prosecution. Learned APP further submitted that till today besides this matter, EOW has registered 12 cases against the applicant/accused in the year 2014. The applicant/accused is very much involved in the racket of such kind of cheating and forgery and total amount of Rs.256.11 crores is till siphoned or abused by this racket.

6. Perused the relevant documents. *Prima facie* this is a cheating on the bank and other institutions. It appears from the record that the applicant/accused is involved in many such transactions. The submissions of learned counsel for the applicant that he has only received Rs.70 lakhs as he is a businessman cannot be accepted at this stage. *Prima facie* it

shows that the applicant/accused is not a innocent person as a businessman but he has played active role in the commission of this offence. From the statement of the Bank Manager and on the basis of evidence collected by the prosecution that the signature of the applicant/accused at the time of receiving FDR is found in the register, the role of the applicant/accused is *prima facie* major in this offence. The amount of Rs.1 crore may be returned by the applicant/accused, however, it is in the overdraft account which is bogus account. All three accounts of Mahavir Enterprises, Concord Enterprises and Rushabh Sales Corporation are found bogus and the amount of Rs. 4.50 crores was siphoned in this account. This is white collar offence of cheating and forgery where huge amounts are involved. Considering the criminal record of the applicant/accused, as he is involved in so many cases, I am afraid that the applicant/accused will jump the bail. Hence, I am not inclined to grant bail to the applicant/accused. Bail Application is rejected.

(MRIDULA BHATKAR, J.)