IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1294 OF 2017

Vikas Anil Singh …Applicant

Versus

The State of Maharashtra …Respondent

WITH
CRIMINAL APPLICATION NO. 532 OF 2017
IN
CRIMINAL BAIL APPLICATION NO. 1294 OF 2017

The Sahebrao Deshmukh Co-operative Bank Ltd. …Intervener
In the matter between
Vikas Anil Singh …Applicant

Versus

The State of Maharashtra …Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 1364 OF 2017

Kishor Ramchandra Shingare …Applicant

Versus

The State of Maharashtra …Respondent

Mr. M. S. Mohite i/b. Mr. K. S. Patil for the applicant in BA/1294/2017.
Mr. V. C. Ghosalkar for the intervener.
Mr. Sujit Shelar i/b. Mr. Ganesh Iyer for the applicant in BA/1364/2017.
Smt. Veera Shinde, APP for the respondent – State.
Mr. Sanjay Bende, Police Inspector, Narpoli Police Station, Bhiwandi.

CORAM : PRAKASH D. NAIK, J.
DATE : 11 JULY, 2017

P.C. :

1. These are applications for regular bail preferred by the applicants in connection with C. R. No.I-380 of 2016 registered with Narpoli Police Station, Bhiwandi for the offence punishable under sections 406, 417, 420, 467, 468, 470 read with 34 of IPC.

2. The applicant in BA No.1294 of 2017 was arrested on 17th January, 2017 and the applicant in BA No.1364 of 2017 was arrested on 19th May, 2017.

3. It is the prosecution case that on 30th August, 2011, the complainant had purchased Godown bearing Gala No.10 admeasuring 278 sq. mtrs. for a sum of Rs.15,70, 000/- from the applicant in BA No.1294 of 2017. This Gala is situated at plot of land at Village Purna, Bhiwandi. The possession was handed over to the complainant after executing requisite documents. Thereafter, the complainant had given the said Gala to M/s. Ciba Toys Pvt. Ltd. on rent. The complainant renewed his agreement with M/s. Ciba Toys Pvt. Ltd. On 28th June, 2016, it was learnt that Sahebrao Co-operative Bank Ltd. has affixed the demand notice for recovery of Rs.2,91,48,212/- on complainant's Gala. When the complainant enquired with the bank he came to know that the said Gala has been sold to one Rajat and Suresh Agarwal on 22nd May, 2012 by the said applicant. It is also learnt that the property was mortgaged with the aforesaid bank by Rajat and Suresh Agarwal and obtained a loan

worth Rs.1,25,00,000/-. On the basis of the complaint, the FIR was registered. During the course of investigation, it was revealed that the applicant in BA/1294/2017 had taken the land for development purpose bearing Survey No.57 Hissa No.1 situated at Village Purna from the land near Dagadu Dighaskar. The applicant / accused had developed the complex on the said land and thereafter sold the galas to the purchaser. It was revealed that the accused again sold gala no.6 to Hitesh and Bhavana Thakkar, Gala No.7 Kailash Rajgadia. The possession letter in respect to Gala no.12 and 13 was given to Avinash Dighaskar. It is further alleged that the applicant / accused had sold gala No.5 to Vasant Bhagwan Zunzakarrrao and again sold the said gala to Suresh Agarwal. It is revealed that Suresh Agarwal and Rajat Agarwal had mortgaged the said property I.e. total 8 galas with the aforesaid bank and obtained 5,55,00,000/-. It is further alleged that an amount of Rs.1,35,00,000/- was credited into the account of M/s. Ramashree Constructions Company in which the applicant / accused is the director. Thus, the applicant is involved in the crime of double registration of property. It is also alleged that the applicant / accused had also written letters to the bank in respect to the said transaction. He is not the person who had obtained the loan from the bank. It is, therefore, alleged that the applicant acted in connivance with the other accused and sold the property to the co-accused.

4. The applicant in BA No.1364 of 2017 is the Chief Executive Officer of the aforesaid Bank. It is alleged against him that he has acted in connivance with the other accused and as a chief Executive Officer he was supposed to put forth proposal of loan to the bank by

following the requisite formalities. There was failure on his part to follow the procedural safeguard and thereby he was acting in connivance with the other accused.

5. Learned advocate for the applicant in BA No.1294 of 2017 submitted that the offences registered lodged against the applicant are triable by the Magistrate Court. The applicant is in custody since 17th January, 2017 and the chargesheet has been filed. He pointed the report filed by the police before the Sessions Court while opposing the application for bail preferred by the applicant. In the said report, it is stated that an amount of Rs.2,56,33,829/- has been deposited in the Bank towards clearance of loan by the co-accused and the balance amount to be recovered by the bank is about Rs.7, 36,71,076.22. It is also stated that the properties purchased by the applicant and the co-accused valued at about Rs.6.47 crores has been seized by the police during the course of investigation. Learned advocate on instructions further submitted that to show his bonafide, the applicant is willing to deposit an amount of Rs.One crore in this Court.

6. Learned advocate appearing for the applicant in BA No.1364 of 2017 has submitted that the said applicant is in custody from 19th May, 2017. It is submitted that he had cooperated with the investigation prior to his arrest. The said applicant was Chief Executive Officer of the Bank. It is submitted that there is no evidence to show his connivance with the co-accused. He further submitted that at the most it can be said that there is dereliction of the duty on the part of the applicant. There is no cogent evidence to

show his involvement in the present crime.

7. Learned APP strongly opposed the applications for bail. Learned advocate for the intervener also supported the submissions advanced by the Learned APP. It is submitted that the applicants are involved in the serious crime. The applicant in BA No.1294 of 2017 had entered into transactions of sale on two occasions and acted in connivance with the co-accused for obtaining loan. Learned counsel for the intervener submitted that the bank has been put to loss and it would be in the interest of the bank to recover money which belongs to the public. It is further submitted that the applicant has committed a serious offence and bail should not be granted to them. It is submitted that the amount has stated above has been credited into account of applicants company. The counsel for the intervener placed reliance on the judgment of the Supreme Court reported in ***(2005) 13 SCC 234***.[1] The reliance was placed on the observations made in paragraph 7 of the said decision.

> It is observed in the said paragraph "....... *that granting or refusing bail by the High Court because the High Court should normally be the final arbiter in such matters. The crime in which the petitioners are involved is very serious involving a conspiracy to cheat and defraud public institutions in a systematic manner and th punishment is likely to be severe in the event of conviction...*"

The amount involved in the said case was about 23 crores and therefore it was observed that the accused may tamper with the

1 Himanshu Chandravadan Desai & ors. Vs. State of Gujrat

evidence by pressuring witnesses. It was also observed that the amount was diverted by the accused therein and bank went into liquidation on account of act of the said accused.

He further submitted that even the first purchaser of the property have been put to loss by the applicants. It is, therefore, submitted that bail may not be granted to the applicants.

8. I have perused the documents on record. From the report submitted by the investigating officer before the Sessions Court, it is apparent that the amount of Rs.2,56,33,829/- was repaid by the borrower to the bank and the balance amount which was to be recovered was Rs.7,36,71,076.22. It is also apparent that the properties as stated above have been seized by the investigating officer. The offences are triable by the Magistrate. The role assigned to the applicant in BA No.1364 of 2017 is investigated by the police. However, there is no strong evidence to show his connivance in the crime. In any case, the said applicant is in custody since 19th May, 2017. The offences are triable by the Court of Magistrate and that on completing the investigation, the chargesheet has been filed. The statement of the applicant in BA No.1294 of 2017 that he is willing to deposit an amount of Rs.1 crore in this Court is also taken into consideration. In the circumstances, bail can be granted to the applicants.

:: ORDER ::

(i) Bail Application No.1294 of 2017 and Bail Application No.1364 of 2017 are allowed.

(ii) The applicants in both the applications are directed to be released on bail in connection with C. R. No.I-380 of 2016 registered with Narpoli Police Station, Bhiwandi on furnishing P. R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only.) each with one or more sureties in the like amount.

(iii) The applicants are directed to report to Narpoli Police Station, Bhiwandi once in a month on the first Saturday of the month between 11.00 am to 1.00 pm till further orders.

(iv) The applicant in BA No.1294 of 2017 is permitted to deposit an amount of Rupees One Crore within a period of one week from today in the Registry of this Court.

(v) The applicants should not tamper with the prosecution witnesses / evidence.

(vi) The applicants are directed to attend proceedings before the trial Court on the date of hearing.

(vii) Criminal Application No.532 of 2017 stands disposed of.

[PRAKASH D. NAIK, J.]