IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 243 OF 2018

Jagdish Chandra Somani ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Hrishikesh Mundargi a/w Mr. S. Sarkar for the Applicant

Mr. S. S. Hulke, A.P.P for the Respondent-State

Mr. Sandesh Patil for the CBI

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 18th APRIL, 2018

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant (original accused No. 4) seeks his enlargement on bail in connection with C.R. No. 23 of 2016 registered with the CBI/EOW, Mumbai, for the alleged offences punishable under Section 120-B r/w 420, 467, 468, 471 of the Indian Penal Code.

3. Learned counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused-Punett Kumar (original accused No. 5) has been enlarged on bail by this Court (Coram :

A. S. Gadkari, J.) vide order dated 23rd January, 2018 passed in Bail Application No. 2168 of 2017. Learned counsel for the applicant submits, that according to the prosecution, what is allegedly due from the applicant, is a sum of Rs. 23,04,042/-. Learned counsel for the applicant submits that, without prejudice to his rights and contentions, the applicant is ready and wiling to deposit the said sum within a reasonable period, as may be directed by this Court.

4. Learned counsel for the CBI does not dispute the fact, that the amount payable by the applicant is Rs. 23,04,042/-. He also does not dispute that the role of the applicant is similar/identical to the co-accused, Punett, who has been enlarged on bail by this Court vide order dated 23rd January, 2018.

5. Perused the papers as well as the order dated 23rd January, 2018, by which, co-accused-Punett has been enlarged on bail by this Court. According to the prosecution, M/s. Nakoda Textile Industries Pvt. Ltd. (accused No. 1) was incorporated as a Pvt. Ltd. Company in 1984 and was renamed as M/s. Nakoda Ltd. in 2010. It is alleged that M/s. Nakoda Ltd.

availed several term loans and working capital loans from a group of banks under a consortium arrangement with 13 banks led by Canara Bank. It is alleged that the fraud on consortium banks was quantified to the tune of Rs. 2107.76 crores. According to the prosecution, as M/s. Nakoda Ltd. defaulted in repayment of loans, M/s. Nakoda Ltd. was classified as NPA on various dates by each of the 13 banks in 2014. Accordingly, the banks conducted inquiries and initiated recovery proceedings as against M/s. Nakoda Ltd. Canara Bank declared the account of M/s. Nakoda Ltd. as "Fraud" and the case was reported to the RBI in February 2016. All the other banks authorized the Canara Bank as a lead Bank, to register an FIR and accordingly, the FIR was registered and was lodged by Canara Bank on 4th October, 2016.

6. The applicant is a Chartered Accountant by profession. It is alleged by the prosecution that the applicant made his family members/relatives/employees as Directors in the companies i.e. M/s. Damodar Silk Mills Pvt. Ltd., M/s. Simran Silk Mills Pvt. Ltd., etc. It appears that various banks including Canara Bank had issued ILC to the said companies on behalf of M/s. Nakoda Ltd.

7. During investigation, the fraud and the illegal acts committed by the accused came to light and the applicant came to be arrested. It is not in dispute that the role of the applicant is similar to that of Punett who has been enlarged on bail by this Court vide order dated 23rd January, 2018. Whilst enlarging Punett on bail, this Court took into account the fact, that the applicant therein, was ready and willing to deposit Rs. 14 crores in the Registry of this Court. As far as the present applicant is concerned, the amount alleged *qua* the applicant is Rs. 23,04,042/-. The applicant has also expressed his readiness and willingness to deposit the said amount within a reasonable time. The applicant is in custody since 23rd April 2017. Investigation is complete and charge-sheet is filed.

8. Considering the aforesaid, without entering into the merits of the case, only in view of the statement made by the applicant that the applicant is ready to deposit the said sum of Rs. 23,04,042/-, without prejudice to his rights and contentions, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be released on cash bail in the sum of Rs. 1,00,000/-, for a period of six weeks;

(ii) The applicant shall furnish PR Bond in the sum of Rs. 1,00,000/-, with one or more local solvent sureties in the like amount, within a period of six weeks of his release on cash bail;

(iii) The applicant shall attend the concerned Police Station on the first Monday of every month between 11:00 a.m. to 1:00 p.m., till the conclusion of the trial;

(iv) The applicant shall deposit Rs. 10 lakhs in the Registry of this Court before his actual release and the balance amount i.e. Rs. 13,04,042/- in two instalments within six months i.e. 50% within three months from the date of his release and the balance 50% within three months thereafter;

(v) The applicant shall deposit his passport, if any, in the trial Court;

(vi) The applicant shall not leave the Country without the permission of the trial Court;

(vii) The applicant shall not tamper the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(viii) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(ix) The applicant to cooperate with the conduct of the trial;

(x) The applicant shall file an undertaking with regard to clauses (iii) to (ix) in the trial Court, within two weeks of his release;

(xi) If there are two consecutive defaults in appearing before the trial Court or in reporting to the Investigating Officer and if there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9. It is made clear that the applicant shall deposit an amount of Rs. 10 lakhs in the Registry of this Court, as a pre-condition before his release from jail.

10. The application is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.