IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 411 OF 2018

Sanjay Mahaveer Prasad Jain ...Applicant
Versus
Assistant Director,
Enforcement Directorate, Mumbai ...Respondent

Mr. V. P. Sawant a/w Mr. Sandeep S. Salunkhe for the Applicant

Mr. H. S. Venegavkar for the Respondent-ED

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 2nd MAY, 2018

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks his enlargement on bail in connection with ECIR Case No. 05/MBZO/2016 registered with the Enforcement Directorate, Mumbai (the applicant was impleaded as an accused in the supplementary complaint lodged by the Enforcement Directorate on 20th December, 2017 in PMLA Case No. 13 of 2017), for the alleged offences punishable under Sections 3 r/w 4 of the Prevention of Money Laundering Act.

3. Learned counsel for the applicant seeks bail on the ground of parity. He submits that similarly placed co-accused Anil Chokhara has been enlarged on bail by this Court (Coram : P. D. Naik, J.) vide order dated 4th August, 2017 passed in Bail Application no. 1581 of 2017. He submitted that in fact, the applicant stands on a better footing than co-accused Anil Chokhara, who has been enlarged on bail.

4. Learned A.P.P does not dispute the fact that the applicant is similarly placed as co-accused Anil Chokhara, who has been enlarged on bail.

5. Perused the papers. According to the complaint i.e. C.R. No. 365 of 2015 filed with the D.B. Marg Police Station on 24th December, 2015 alleging offences punishable under Sections 420, 465, 467, 468, 471 r/w 120-B of the Indian Penal Code, the bank account holders of IndusInd Bank i.e. M/s. Yogeshwar Diamond Pvt. Ltd., M/s. Shree Charbhuja Diamonds Pvt. Ltd. and M/s. Kanika Gems Pvt. Ltd. having bank accounts with IndusInd Bank branches of Opera House and Fort, Mumbai had submitted forged Bills of Entry in respect of import of diamonds. Pursuant

thereto, IndusInd Bank remitted Indian currency to the tune of Rs. 304,35,77,609/- abroad illegally, in the form of import advance and also gave post-import remittance/payments, etc. It is alleged by the prosecution that the signatures of the Custom Officers and the CHA were forged on the Bills of Entry and that the Bills of Entry were manipulated. During investigation, it was found that original Bills of Entry obtained from the customers were forged and fabricated and that remittance were made in the form of import advance. Despite repeated reminders by the IndusInd Bank, the accused companies failed to furnish requisite import documents to the bank. On the basis of the FIR registered with the D. B. Marg Police Station, the Enforcement Directorate registered the aforesaid ECIR on 11th May, 2016. It appears that summons were issued, pursuant to which, the applicant appeared before the Enforcement Directorate and on 24th October, 2017, the applicant was arrested.

6. Learned counsel for the applicant submitted that the applicant was working in the company-M/s. Raghukul Diamond Pvt. Ltd. as an accountant in the Accounts Department. He submitted that the applicant has not been named in the FIR and was named subsequently as an accused.

Leaned counsel for the applicant submitted that the amount found in co-accused-Anil Chokhara's account was Rs. 150 crores, whereas, the amount assigned to the present applicant is Rs. 9.5 crores. He further submitted that co-accused-Anil Chokhara, who was named in the FIR and a Director of the three defaulting companies was enlarged on bail by this Court vide order dated 4th August, 2017, after considering the merits of the case.

7. It is not in dispute that the applicant stands on a better footing than co-accused-Anil Chokhara, who has been enlarged on bail by this Court. Considering the aforesaid, 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 report to the Enforcement Directorate on the first Saturday of every month between 11:00 a.m. to 1:00 p.m., until further orders;

(iv) The applicant shall deposit his passport with the Enforcement Directorate, Mumbai, prior to his release;

(v) The applicant shall not leave the Country without the permission of the Court.

(vi) The application is accordingly disposed of.

(vii) 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.

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

REVATI MOHITE DERE, J.