IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1615 OF 2018

Vinod Kanti Chandra …Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Ashok P. Mundargi, senior Advocate with Ms Gauri S. Rao for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.
Mr. Sanjay P. Shinde for the Intervenor /Applicant in APPP/899/2018.
Mr. Pradeep Sawant, API, EOW-II, Navi Mumbai, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 4th OCTOBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Criminal Case No.285 of 2017 pending before the learned J.M.F.C., Panvel. Said case arises from C.R.No. 77 of 2016 dated 22nd April, 2016 registered with Khandeshwar Police Station, Navi Mumbai, for offences punishable under sections 420, 467, 468 and 471 of the Indian Penal Code, 1860.

2. Mr. Ashok Mundargi, the learned senior counsel for the Applicant submits that there is no prima facie material to show the involvement of the Applicant in commission of the crime. He submits

that the Applicant is in custody since 4.12.2017 and that the allegations levelled against the Applicant do not justify further custody. He has submitted that similarly placed co-accused have been released on bail by the Trial Court and that one of the co-accused has been released by this Court. He therefore, contends that the Applicant is also entitled for bail on the ground of parity.

3. Mr. Sanjay Shinde, the learned counsel for the Intervenor submits that the Applicant is one of the main conspirators. He submits that there is prima facie material to show that the Applicant was in contact with the other co-accused, who had hatched the conspiracy to cheat the Board. He further contends that the manner in which the Applicant had allowed opening of saving accounts and withdrawal of amount and the manner in which he had verified the documents, prima facie proves his involvement in the said crime. He submits that the orders passed by the learned Magistrate granting bail to the other co-accused have already been challenged by filing applications for cancellation of bail before this Court.

4. Mr. S.R. Agarkar, the learned APP submits that the material on record prima facie indicates that the Applicant has been negligent in performing his duties.

5. The records prima facie reveal that total amount of Rs.4 crores of Bombay Iron and Steel Labour Board (in short 'Board') was to be invested in Andhra Bank, Branch-New Panvel. The Applicant herein was the manager of the said Branch during 24.7.2012 to 27.7.2014. The records prima facie reveal that out of the amount of Rs.4 crores, Rs.3 crores were invested in fixed deposit in the name of the Board. The records prima facie reveal that the co-accused, who had forged and fabricated the documents had opened a saving account in the name of the Board of which one Mr. Tole was the authorised signatory. The said resolution of the board was allegedly a forged and fabricated document and was used by Mahesh Utekar, to open the savings account and thereafter to withdraw the amount of Rs.80 lakhs during the tenure of this Applicant from the said saving account.

6. The records prima facie reveal that the Applicant herein had not verified the documents and had permitted opening of saving account and later transferred the money from the saving bank account without appropriate verification of the documents. In my considered view this fact would at the most be a negligent act and prima facie

would not constitute an offence under Sections 420 and 467 of the IPC or other offences as alleged.

7. The learned counsel for the Intervenor has drawn my attention to the statements of the several witnesses, wherein they have stated that the Applicant was seen entertaining other co-accused in his cabin. It is to be noted that the Applicant was a manager of the Bank and the mere fact that he had entertained customers in his cabin would not per se be sufficient to infer criminal conspiracy.

8. It is not in dispute that the amount allegedly misappropriated by the co-accused has not been traced to this Applicant. There is nothing on record to show that he has been benefited in any manner by the fraud allegedly committed by the co-accused. The act, attributed to the Applicant prima facie amount to dereliction of duty and such negligent act without there being any element of criminal intent would not constitute offence under Section 120 B of the IPC.

9. It is also to be noted that nature of allegations levelled against this Applicant would not justify further detention. Furthermore Rajendra Balu Shelke, who was one of the main accused has been

granted bail by this Court (Coram :-A.S. Gadkari, J.) by order dated 11th October, 2017. It is not in dispute that the said order has not been challenged. Considering the fact that similarly placed other accused are released on bail, the Applicant is also entitled for bail.

10. Considering the above facts and circumstances, the application is allowed on following terms and conditions :

(i) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.50,000/- with two solvent sureties in the like amount, out of which one surety will be local surety.

(ii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned Investigation Officer.

(iii) The Applicant shall not change his residential address without prior intimation to the concerned Investigation Officer.

(iv) The Applicant shall report to the Investigation Officer and /or Senior P.I. of the Khandeshwar Police Station on first Monday of every month until further orders.

(v) The Applicant shall not tamper with the witnesses or interfere with the evidence in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha Shridhar Parab Digitally signed by Megha Shridhar Parab Date: 2018.10.10 15:05:41 +0530