IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1896 OF 2018

Ramesh Madan Patel …Applicant
Versus
The State of Maharashtra ...Respondent
…..
Mr. Gajendra K. Jadhav for the Applicant.
Ms Ameetha Kuttikrishnan for the CBI.
Mrs. J.S. Lohokare, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 28th SEPTEMBER, 2018.

P.C.:-

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in CBI case No. RC 14/E/2017 registered with CBI, EOW, Mumbai for offences under Sections 120 B, 420, 467, 468, 471 of the Indian Penal Code, 1860 and Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988.

2. Heard Mr. Gajendra Jadhav, the learned counsel for the Applicant and Mrs. J.S. Lohokare, the learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The case of the prosecution in brief is that on 29th July, 2011 the co-accused Ashok Kumar Singh through M/s. Ashoka Property Developers had applied to Central Bank of India, Pedar Road Branch, Mumbai, for overdraft facility of Rs.2 crores under the Cent Mortgage Scheme. The overdraft facility was sanctioned vide sanction order dated 5th August, 2011 on the basis of the documents submitted and the co-lateral security furnished. Phelomena- wife of said Ashok Kumar Singh, who is one of the co-accused, was the guarantor for the said overdraft facility. Three properties out of which two were in the name of Phelomena and one, which was in the name of Ashok Singh were mortgaged as a co-lateral security. It is alleged that said Ashok Singh had fully availed the overdraft facility, however, he did not repay the Bank as per the terms of sanction. The account was therefore classified as NPA on 29.12.2014 on which date outstanding amount due was Rs.2,09,44,621/-.

4. On 6th October, 2011 Ashish Singh, son of Ashok Kumar Singh applied for overdraft facility of Rs.2.75 crores under the same scheme. Same was also sanctioned and was fully availed. It is alleged that said amount was also not repaid.

5. In the course of enquiry it was revealed that the documents produced by the co-accused were forged and fabricated and that they had availed different kinds of loans from the banks by playing frauds. Hence, the FIR came to be lodged against the co-accused Ashok Kumar Singh and his son -Ashish Singh and others.

6. In the course of the investigation, it was revealed that an amount of Rs.1,42,56,275/- was transferred from the account of M/s. Ashish Communication to the account of M/s. Krishna Fashion World of which the Applicant is partner. The investigation prima facie revealed that the Applicant was the direct beneficiary of the amount of Rs.1,42,56,275/-. The Applicant was therefore, arrested on 9th January, 2018.

7. The learned counsel for the Applicant submits that the main accused Ashok Singh has been released by this Court vide order dated 31st August, 2018 in Criminal Bail Application No.617 of 2018. In paragraph 5 of the said order this Court (Coram: Prakash D. Naik, J.) has observed that prima facie it is debatable whether Section 467 of the IPC is attracted to the case. This Court also took note of the facts that co-accused Ashish Singh has so far deposited 95,64,430/- and

some of his properties are already attached. Considering the said fact and also the fact that the other offences are punishable with imprisonment for a maximum term of 7 years, this Court had granted bail to the co-accused Ashok Kumar Singh.

8. The learned counsel for the Applicant has placed on record affidavit by the Applicant wherein he has undertaken to deposit total amount of Rs.71,00,000/-out of alleged amount of Rs.1,42,00,000/-. The said undertaking reads thus:-

> " I say that without prejudice to my right and contentions, I undertake to deposit amount of Rs.71,00,000/- (Seventy One Lakhs only) before the Hon'ble Court out of total alleged amount of Rs.1,42,00,000/- as per the following schedule:-
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> 1. Before Execution of Bail Bond the Applicant undertakes to deposit amount of Rs.21,00,000/-.
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> 2. After release on bail out of part amount of Rs.50,00,000/-, the Applicant will deposit in installments of Rs.10,00,000/-(Rupees Ten Lakhs only) each in Five installments on or before 10/01/2019, 10/05/2019, 10/09/2019,

10/01/2020 and 10/05/2020 respectively.

I say that the above undertaking is given by me without any pressure or compulsion of any of the person."

9. The aforesaid statements are accepted. The Applicant is directed to deposit the amount as undertaken before the registry of this Court. Registry is directed to accept the same.

10. Considering the statement made by the learned counsel for the Applicant and also considering the fact that the main accused Ashok Kumar Singh has been released on bail, this Applicant is also entitled for bail on the ground of parity. Hence, the following order:-

(i) Application is allowed.

(ii) The Applicant is directed to be released on bail in connection with FIR No.RC0682017E0014 registered with CBI-EOW, Mumbai, which is subject matter in Special Case No.4 of 2018 pending before the Special Court, at Mumbai, on furnishing PR Bonds in the sum of Rs.50,000/-

with one or more sureties in the like amount.

(iii) The Applicant shall not tamper with the evidence.

(iv) The Applicant shall attend the proceedings before the Special Court regularly.

(v) The Applicant is permitted to furnish cash security in the sum of Rs.50,000/- for a period of four weeks.

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

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

(SMT. ANUJA PRABHUDESSAI, J.)

Megha Shridhar Parab Digitally signed by Megha Shridhar Parab Date: 2018.09.28 17:50:47 +0530