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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1575 OF 2017

Amish Bharat Mehta ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

WITH
ANTICIPATORY BAIL APPLICATION NO. 994 OF 2017

Priti Jugdamkumar Gupta ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

WITH
ANTICIPATORY BAIL APPLICATION NO.1236 OF 2017

Tej Dilip Parekh ... **Applicant**
V/s.
The State of Maharashtra & Anr ... **Respondents**

WITH
APPP NO. 921 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO.1236 OF 2017

WITH
ANTICIPATORY BAIL APPLICATION NO. 964 OF 2017

Dilip Shantilal Parekh ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

Mr. P.M. Joshi for applicant in A.B.A. No.1575/2017.
Mr. M.G. Shukla for applicant in A.B.A. No.1236/2017, A.B.A. 964/2017 and APPP No.994/2017.
Mr. Akshay Naik a/w Dharmpal Dave, Ajinkya Patil and Hemant Salvi i/b Naik Patil Salvi & Associates for applicant in ABA 994/2017.
Ms. A.A. Takalkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 19th JANUARY 2018.

P.C.:

1] These are the applications under Section 438 of Cr. P.C. for pre-arrest bail in CR No.631 of 2016 dated 20.12.2016 registered with Borivali Police Station under Sections 420, 465, 468, 469 r/w 34 of the Indian Penal Code.

2] By Orders dated 8th September 2017, 15th June 2017, 20th July 2017 and 7th June 2017, the applicants were granted interim relief.

3] Heard the learned Counsel appearing for respective applicants and the learned APP. Perused the record of investigation.

4] The applicant/Amish B. Mehta (A.B.A.No.1575/2017) was the Branch Manager of Ahmedabad Mercantile Co.Operative Bank Ltd.(for short "the Bank") when the alleged offence has taken place. The applicant/Smt. Priti J. Gupta (A.B.A. No.994/2017) and applicant Mr.Tej

Dilip Parekh (A.B.A.No.1236/2017) are the partners of M/s Parekh Apparels. Applicant/Mr.Dilip S. Parekh (A.B.A. No.964/2017) is the father of applicant/Mr.Tej Parekh and was representing the said firm on behalf of all the partners and transacting with the Bank Authorities on behalf the said firm.

5] The first information report is lodged by Shri Ashok R. Shah the Branch Manager of Ahmedabad Mercantile Co.Operative Bank Ltd. It is stated that on 8.12.2014 the applicant Smt. Priti Gupta submitted a proposal on behalf of M/s Parekh Apparels for a lone of Rs.3.20 Crores and also submitted a profile file along with it. She also submitted a Deed of Partnership of the said firm namekly M/s Parekh Apparels having four partners therein. Smt. Priti Gupta also submitted the documents of Shop No.5 situated on the ground floor, Baijabai Apartment, Malad (East), Mumbai owned and possessed by Smt. Yasmin Mirza, partner of the said firm as a security for the said loan. That applicant Mr.Amish Mehta thereafter took inspection of the same and verified the relevant documents. Mr. Amish Mehta forwarded the proposal with the head office of the said Bank at Ahmadabad. That on 8.1.2015 the said Bank sanctioned a loan amounting to Rs.2.40 Crores in favour of the M/s Parekh Apparels. That on or before 1.2.2015 the said M/s Parekh Apparels withdrew an amount of Rs.2,20,65,958/- (Two Crores Twenty Lakhs Sixty Five Thousand Nine Hundred and Fifty Eight) from the said Bank Account for transactions effected by the said firm with various other companies. That on 2.2.2015 Smt. Priti Gupta further made an application for a loan of Rs.80.00 lakhs for purchasing sewing machines for their business. Along with the said application, she had annexed Project Report and Proforma Invoice dated 19.1.2015 for amount of Rs.1,12,38,570/- (One Crore Twelve Lakhs Thirty Eight Thousand Five Hundred and Seventy) issued by Mehala Machines India Ltd for purchase of 72 machines. She also annexed receipt dated 14.2.2015 thereby indicating that, the said partnership firm of the applicants have paid an advance of Rs.15.00 lakhs to the said Company. She further submitted a receipt dated 14.2.2015 thereby indicating that an amount of approximately Rs.17,38,570/- has been paid to Mehala Machines India Ltd towards advance. It is stated that the applicant Amish Mehta verified the said documents, visited the said place where the said machines were to be installed and forwarded the loan proposal to the head office of the said Bank on 16.2.2015. The said Bank thereafter transferred an amount of Rs.78.00 lakhs in the account of Mehala Machines India Ltd in its IndusInd Bank at Tirupur Branch, State of Tamil Nadu on 4.3.2015. That the applicant Smt. Priti Gupta on 29.4.2015 further made an application for temporary Over-draft Facility for Rs.40.00 lakhs. She further submitted an order of Ladies Garments issued by the Shoppers Stop dated 6.4.2015 for Rs.1,29,80,000/-. That the applicant Amish Mehta purportedly verified all the documents and submitted his report to the head office of the said Bank on 29.4.2015. The said Bank sanctioned further sum of Rs.40.00 lakhs in favour of the said firm M/s Parekh Apparels. It is stated in the first information report that, from 13.7.2015 the said firm stopped all transactions with the Bank and did not pay the amount and/or interest accrued thereon nor returned the principal amount to the said Bank and being suspicious about the conduct of the said firm i.e. M/s Parekh Apparels, the first informant made an enquiry with the applicant Smt. Priti Gupta to which she gave evasive replies. The first informant thereafter made an enquiry with Mehala Machines India Ltd. It was communicated to the first informant that the invoice submitted by M/s Parekh Apparels for purchase of machines was in fact not issued by their Company. That the Company Shoppers Stop also intimated to the first informant that the order of Rs.1,29,80,000/- for purchase of garments allgedly submitted by the said

M/s Parekh Apparels was not at all issued by Shoppers Stop. During the course of investigation, it was revealed to the first informant that the partners of M/s Parekh Apparels namely Smt. Priti Gupta (A.B.A. No.994/2017), Balkrishna Anchan, Mr. Tej Parekh (A.B.A.No.1236/2017), Smt. Yasmin Mirza and Mr. Dilip Parekh (A.B.A.No.964/2017) the person who used to represent the firm M/s Parekh Apparels by submitting bogus and/or fabricated proforma invoices of Mehala Machines India Ltd and Shoppers Stop took aforestated loan from the said Bank, however, did not repay it and thereby caused wrongful loss to the said Bank to the tune of Rs.3.58 Crores. It is stated that, after conducting enquiry as aforesated, the first informant has lodged the present first information report.

6] The learned Counsel appearing for the applicant Mr.Amish Mehta (A.B.A. No.1575 of 2017) submitted that, the applicant being a Bank Manager has taken all due care and after duly verifying the documents and conducting site inspection, forwarded the proposal of the said firm to the head office of the said Bank who in turn sanctioned the said loan in favour of M/s Parekh Apparels. He submitted that the applicant has no role to play in the present crime and has no concerned with the alleged bogus and/or forged documents submitted by Smt. Priti Gupta and/or Dilip

Parekh. He further submitted that the applicant is being unnecessarily targeted by the said Bank and/or Investigating Agency thereby putting his personal liberty in jeopardy. He further submitted that, if the applicant is not protected by pre-arrest bail, his personal liberty will be at stake. He therefore prayed that the applicant may be granted pre-arrest bail.

The learned Counsel for the applicant Smt. Priti Gupta (A.B.A. No.994/2017) submitted that, the applicant was made as a partner in the said firm namely M/s Parekh Apparels for namesake as she was having an 10% of stakes in the said firm. He submitted that the applicant was in fact an employee of Shri Dilip Parekh and under his instructions she used to submit documents to the said Bank. He further submitted that the applicant has no direct concern with the alleged crime in question and as stated earlier she used to work under the instructions of Dilip Parekh. He further submitted that as a matter of fact, Dilip Parekh used to represent the said firm and transact on behalf of the said firm with the said Bank. He submitted that the applicant Smt. Priti Gupta is innocent and he therefore prayed that the applicant may be granted pre-arrest bail.

The learned Counsel for the applicant Mr.Tej Parekh (A.B.A. No.1236/2017) submitted that the present applicant Mr. Tej Parekh is hardly 23 years of age and he was made partner by his father Mr. Dilip Parekh to become an entrepreneur. He submitted that the first information reort and other documents would reveal that, except being a partner of the said firm, he never had any transaction directly with the said Bank and it is the co-accused Smt. Priti Gupta and his father Mr. Dilip Parekh used to make transactions with the Bank. He further submitted that, in pursuance of directions issued by the Court, the said applicant has attended the Investigating Officer on several occasions and therefore the custodial interrogation of the applicant Mr.Tej Parekh is not necessary.

As far as applicant Mr.Dilip Parekh (A.B.A. No. 964/2017) is concerned, the learned Counsel submitted that except the allegation that the said applicant used to represent the firm i.e. M/s Parekh Apparels with the Bank and transact on its behalf, there is no material available on record to connect the said applicant with the present crime. He therefore prayed that both the applicants may be granted pre-arrest bail.

7] At this stage a useful reference can be made to a few landmark decisions of the Hon'ble Supreme Court.

(i) The Constitution Bench of the Supreme Court in the case of Shri Gurbaksh Singh Sibbia & Ors Vs State of Punjab reported in (1980) 2 SCC

565, while analysing the provisions of Section 438 of Cr. P.C. with the personal liberty of an individual and the process of investigation of the crime, has held that, each and every case has to be decided on its own merits after taking into consideration the principles enunciated therein.

(ii) The Supreme Court in the case of Lavesh Vs. State (NCT of Delhi) reported in (2012) 8 SCC 730 has held that, while dealing with Section 438 of Cr. P.C., the Court should take into consideration the nature and gravity of accusation, conduct of the accused and other relevant aspects. It is reiterated by the Supreme Court that normally court should not exercise its discretion to grant anticipatory bail in disregard of magnitude and seriousness of the crime.

(iii) The Supreme Court in the case of State Rep. By the C.B.I. Vs. Anil Sharma reported in (1997) 7 SCC 187 has held as under:

> *"Custodial interrogation is qualitatively moire elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful information and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the*

time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual."

(iv) The Supreme Court in the case of Ram Narain Poply Vs. Central Bureau of Investigation reported in AIR 2003 SC 2748 has held that, an economic offence with large magnitude causes damage to the national economy. That the entire community is being aggrieved by the same. It is observed that funds of public body are utilised as if they are private funds. That the acts of accused had serious repercussions on economic system of country. It is held that such 'while collar crime' should be viewed sternly.

8] After taking into consideration the aforesaid principles laid down by the Hon'ble Supreme Court, the material available on record in the present case indicates and reveals the following:

(i) The applicant Amish Mehta, was the Branch Manager of the said Bank when the applicant Smt. Priti Gupta of M/s Parekh Apparels submitted various proposals for loan. As of today, it is an admitted position on record that, the aforestated two documents namely proforma invoices of M/s Mehala Machines India Ltd and the work order issued by Shoppers Stop to said firm to the tune of Rs.1,29,80,000/- were found to be forged and/or fabricated documents. The said two documents were produced by the co-accused for getting loan. The applicant Amish Mehta was working as a Branch Manager and it was his responsibility to verify the said documents before sending it for further process to the head office of the said Bank at Ahmadabad. Prima facie, it shows his complicity in the present crime and he is equally responsible for commission of the present crime. That without his active participation, the alleged offence would not have been committed by the co-accused.

(ii) The record indicates that, the applicant Smt. Priti Gupta since inspection has submitted various documents to the said Bank for availing aforestated loans. It appears that, she in connivance with applicant Mr.Dilip Parekh has procured and/or manufactured the said two forged and/or fabricated documents for claiming huge loan amounts from the said Bank. The record further indicates that the applicant Smt. Priti Gupta was the person who was actually conducting the business on behalf of M/s Parekh Apparels along with applicant Mr.Dilip Parekh with the said Bank. The applicant Smt. Priti Gupta is also a partner of the said firm having 10% stakes in it. It prima facie appears that, there was collusion between the applicant Smt. Priti Gupta (A.B.A. No.994/2017) and Dilip Parekh (A.B.A. No.964/2017) and Tej Parekh (A.B.A.1236/2017) in submitting the forged and/or fabricated documents for getting loan from the Bank.

(iii) The applicant Mr.Tej Parekh is a partner of said firm having 45% stakes in it. The record indicates that he in connivance with applicant Smt. Priti Gupta and applicant Mr.Dilip Parekh by submitting forged and/or fabricated documents availed the aforestated huge loan in favour of the said firm namely M/s Parekh Apparels. It prima facie appears that the aplicant in connivance with other accused persons have committed the present crime.

(iv) Applicant Mr.Dilip Parekh though is not a partner of the said firm as per the record, it appears that he was the person who was transacting on behalf of the said firm with the said Bank. Prima facie it appears that he is the mastermind behind the present crime. It further appears that, said applicant Mr. Dilip Parekh in concert with co-accused Smt. Priti Gupta and Mr. Tej Parekh has maneuvered all transactions. The Trial Court in its Order dated 21.4.2017 has recorded a finding that it is the applicant Mr.Dilip Parekh who was the person actually conducting the business of the said firm and I find substance in the said finding. The applicant Mr.Dilip Parekh, is the father of co-accused Mr. Tej Parekh who is having 45% stakes in the said firm. The first information report clearly indicates that, the applicant Dilip Parekh used to submit documents and was attending the said Bank for making loan proposals along with applicant Smt. Priti Gupta of the said firm i.e. M/s Parekh Apparels. Thus prima facie it appears that the criminal liability in the present crime appears to be with Mr. Dilip Parekh, Mr. Tej Parekh and Smt. Priti Gupta.

9] After taking into consideration the material available on record and considering the serious nature of allegation against all the applicants and gravity of the offence, and considering the fact that huge public money is involved in the present crime, this Court is of the view that the applicants do not deserve to be protected by pre-arrest bail.

10] All the Applications are accordingly rejected. Consequently, Criminal Application No.921 of 2017 does not survive and the same is disposed off.

(A.S.GADKARI, J.)