IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2284 OF 2018

Kalpesh Jayram Koshti .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Kushal Mor, Advocate for the Applicant.
Mr.Arfan Sait, APP for the Respondent – State.
Ms.Ameeta Kuttikrishnan, Advocate for Union of India.
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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 22, 2018.

P.C. :

This is an application for bail in connection with C.R.No.RC-0682017E0014, dated 31st August, 2017, registered by C.B.I. E.O.W., Mumbai, for the offences punishable under Sections406, 409, 420, 465, 467, 468 and 471 read with 120-B of Indian Penal Code ("IPC", for short) and Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988. Applicant was arrested on 12th October, 2017. Investigation was conducted by C.B.I.-E.O.W., Mumbai. On completing investigation, charge – sheet has been filed.

2 In short, the prosecution case is that the co-accused Ashok Singh and his son Ashish Singh had availed loan to the tune of Rs.17 Crores during the period between 2011 and 2012. For the purpose of availing the loan facility, the accused filed exaggerated books of accounts, income tax returns and inflated the value of property mortgaged. In 2014, the loan account was declared as NPA. At the instance of complainant, First Information Report ("FIR", for short) was registered on 31st August, 2017, by C.B.I.

3 Learned advocate for the applicant submitted that the main accused Ashok Singh has been granted bail by this Court vide bail application No.617 of 2018, by order dated 31st August, 2018. It is further submitted that the applicant is in custody from the date of arrest. He is arrested on 8th January, 2018. Investigation is completed and charge–sheet is filed. It is also submitted that the applicant is not named in the FIR, and he is assumed to be have interested in the firm viz. M/s.Ahmadabad Sales Corporation, and, therefore shown as accused no.9. It is the prosecution case that Mr.Ravikumar Bhil has withdrawn the amount from the account of M/s.Hindustan Enterprise and all the transactions reflected in the Bank account carried out at the

instance of the present applicant. It is submitted that the applicant is impleaded only on the basis of the statement of the said witness. It is submitted that the status of the said witness is in the nature of accomplice and no reliance can be placed on the said statement. It is the prosecution case that several transactions were carried out in the account of M/s.Ahmadabad Sales Enterprises and M/s.Hindustan Enterprises. It is submitted that Rs.40,00,000/-, were transferred to M/s.Ahmadabad Furniture Mart Account on 30th November, 2012, and the same was later transferred to account of Swiss Brain Stores on 30th November, 2012. He also referred to the transactions effected in the account of M/s.Hindustan Enterprises. It is submitted that all the amounts in credits debits were followed by debit transfers, which makes it abundant clear that the applicant is not the beneficiary of the amount being deposited in his account. It is submitted that the prosecution case is that the applicant had allegedly earned commission of the said transactions. Therefore, by no stretch of imagination, applicant accused can be connected with the main accused who intended to defraud and cheat the complainant bank and all the transfers and deposits in the said accounts were done at the behest of the main accused. It is submitted that the accounts where credits and loans were declared as NPA after the transactions were effected in the account of M/s.Ahmadabad Sales Corporation and M/sHindustan Enterprises, and, therefore, also assuming without admitting that the said accounts were operated by the applicant at the relevant point of time i.e. in the year 2011-12. The amounts so transferred in the accounts were not proceeds of crime. It is submitted that the applicant is in custody for substantial time. He is, presently, in judicial custody. There is no need of further detention of the applicant. He relied on the decision of the Supreme Court in the case of ***Sheila Sabastian Vs. R. Jawaharaj & Others***[1] in support of his submissions. It is submitted that he is not involved in any acts of forgery and the main role is attributed to the other accused.

4 Learned counsel for the respondent, however, submitted that the applicant had actually participated in the crime. He had knowledge of the fraudulent transactions committed by the other accused. He is concerned with the firm *viz.* M/s.Ahmadabad Sales Corporation. The amounts were routed through the account of the said firm and the applicant is instrumental in facilitating the co-accused in commission of the

1 Cri.Appeal Nos.359-360 of 2010, decided on 11.05.2018

said crime. It is submitted that the applicant is attributed specific overtact and there is sufficient evidence to show his involvement in the crime, and, hence, bail be rejected. It is submitted that Sessions Court while rejecting the application for bail has assigned several reasons for not granting bail to the applicant. The accused were involved in fraudulent transactions and the acts have resulted in loss to the complainant Bank to the tune of Rs.17 crores. The crime was committed by producing forged and fabricated documents. It is, therefore, submitted that the application for bail be rejected.

5 I have perused the documents which are annexed to this application. FIR was registered on 31st August, 2017. Applicant was arrested on 12th October, 2017. Investigation is completed and charge–sheet has been filed. The main role has been assigned to the co-accused. It is the prosecution case that the other accused had approached the Central Bank of India for credit facilities to the tune of Rs.17 crores. The loan account and credit facilities were declared as non-performing assets by the Bank. The other accused were arrested. It is pertinent to note that except the applicant all other accused are granted bail. The co-accused Ashok Singh, who had approached the Bank for credit

facilities has been granted bail by this Court vide Bail Application No.617 of 2018, by order dated 31st August, 2018. Primary role attributed to the applicant is that firm of the applicant accused was utilized for routing the amount credited in the account of the other accused. Investigation is completed and charge–sheet is filed. Considering the aforesaid circumstances as stated above, further detention of the applicant is not necessary and the case for grant of bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

(i) Bail Application No.2284 of 2018, is allowed;

(ii) Applicant is directed to be released on bail in connection with C.R.No.RC-0682017E0014, dated 31st August, 2017, registered by C.B.I. E.O.W., Mumbai, which is subject mater in Special Case No.4 of 2018, pending before the Special Court, at Mumbai, on his furnishing P.R. Bond in the sum of Rs.50,000/-, with one or more sureties in the like amount;

(iii) Applicant shall not tamper with the evidence;

(iv) Applicant shall attend the proceedings pending before the Special Court regularly, unless exempted by the Court for some reasons;

(v) Applicant is permitted to furnish cash security of Rs.50,000/-, in lieu of surety, for a period of four weeks from today;

(vi) Bail Application No.2284 of 2018, stands disposed of.

(**PRAKASH D. NAIK, J.)**