IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2222 OF 2017

Harshal Bhanudas Chapake .... Applicant
Vs.
The State of Maharashtra .... Respondent

Mr. Aniket U. Nikam a/w Mr. Harshal Patil i/by Mr. Aashish Satpute for the Applicant.

Mr. S.H. Yadav, APP for the State.
Mr. Sanket C. Kasar, Constable, E.O.W.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 13th February, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 7th September 2016 in Crime No.140 of 2016, registered at Manmad City Police Station, District Nashik, for the offences punishable under Sections 406, 408, 409, 420, 465, 467, 468, 470, 471, 472, 477(A), 201 of Indian Penal Code and Section 66(A) of the Information Technology Act.

3 It is the case of the prosecution that on 12th October, 2016 one Vinit Rameshchandra Kapoor lodged a report at the police station that he is working as a Branch Manager at Dena Bank, Manmad. That there was mis-appropriation in the bank from the accounts of the pensioners. Bank employees had used their own Login-IDs, Passwords and ATM cards in respect of 15 pensioners and withdrawn an amount of Rs.61,53,980/-. Upon investigation, it was revealed that some of the pensioners had expired. The amounts were withdrawn from the ATM centres at Manmad, Shirdi etc. On the basis of the said report, Crime No.140 of 2016 was registered, investigation is completed and charge-sheet is filed against six accused persons.

4 Learned counsel for the applicant vehemently submits that in the present case, there are in all six accused persons. Manish Mittal was officer of Dena Bank, Manmad Branch at the relevant time. He has been enlarged on bail by this Court (Coram : Revati Mohite Dere, J.) vide order dated 21st April, 2017. There is a reference to the present applicant as accused no.3, Harshal Chapke who was operating a single window and accused no.5, Dashrath Jadhav who was working as a Watchman. Learned APP vehemently submits that the applicant was the single window operator and has misused the User-ID, Password and I.P. address. Ten ATM cards were used for withdrawing the amounts. It is specifically observed that out of six accused, three were single window operators, 2 were

officers and one was watchman. Out of three single window operators, another window operator namely Kirti Manish Sharma, who was also working as a single window operator was enlarged on bail by this Court (Coram : Mrs. Mridula Bhatkar J.) vide order dated 9th March, 2017. It is specifically observed that at the relevant time accused Kirti Sharma was working as single window operator in the bank and her User I.D. number and secret password was used for the purpose of withdrawal of the amount. Accused Kirti Sharma had tried to shift the onus upon the present applicant, however, the material collected in the course of investigation would show that since she was working as a single window operator, she was equally liable for the said offence. The accused Ragunath Madhav Shinde who was working as single window operator have filed Criminal Bail Application No.953 of 2017 alongwith Dashrath Prakash Jadhav who was working as Watchman and Omikumar Prabhuchand Prasad, who was working as an officer were enlarged on bail, by this Court (Coram: TV Nalawade, J.) vide order dated 9th August, 2017. It is specifically observed that the employees were given same password numbers. They had misused the password and User-Id and misappropriated the amounts lying in 50 pension accounts of deceased pensioners. They all had prepared ATM cards for withdrawing the amounts from these accounts and had withdrawn the amount. As far as the account of Ravikant Dagduji Pawar was concerned, the applicant i.e. Harshal had played the role as Cashier.

The activities were recorded in CCTV footage. An amount of Rs.10,500/- was transferred to the account of the present applicant. Some amount was transferred in the name of wife of accused Omikumar. It is transpired in the statements of some of the accused that the present applicant was also working as a Cashier. The Hon'ble Court (Coram : T.V. Nalawade, J.) had specifically observed that the applicants have been behind bars since September 2016 and taking into consideration the fact that the co-accused were enlarged on bail, by this Court, the three accused Dashrath, Raghunath, and Omikumar were enlarged on bail by this Court.

5 Learned APP vehemently submits that the role attributed to the present applicant is that he had used the password for withdrawing the amounts and had misappropriated. It is also submitted that the present applicant had admitted that he alongwith the co-accused had misappropriated the amounts from the accounts of the pensioners and that he had received Rs. 10,21,000/-. He had specifically stated that the said amount of Rs.10,21,000/- was given to him by Omikumar. He had no knowledge as to whether there was any other person facilitating Omikumar. The present applicant had deposited an amount of Rs.7,00,000/- forthwith in Dena Bank, Nashik Road Branch, which was accepted by the bank authorities. It does not appear from the record that the other accused had deposited any amounts. Learned counsel for the applicant submits that after admission of the offence, the applicant has repaid an

amount of Rs.7,00,000/- to show his bonafides and that he has undertaken to deposit rest of the amount of Rs.3,00,000/- within four weeks from the date of his release in Dena Bank Nashik Branch as condition precedent for his enlargement on bail without prejudice to his rights. Taking into consideration the fact that five out of six accused persons have been enlarged on bail by this Court vide orders dated 21st April, 2017, 9th March, 2017 and 9th August, 2017 and moreover the present applicant is willing to refund the entire amount, which had come to his share, this Court is of the opinion that the applicant deserves to be enlarged on bail.

6 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

O R D E R

1 The application is allowed and disposed of.

2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount subject to the condition that he deposits an amount of Rs.3,00,000/- prior to his release.

(*Smt. Sadhana S. Jadhav*, J)