IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1057 OF 2019

Ashish Vilas Pawar ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Nitin Sejpal a/w Ms. Pooja Sejpal and Ms. Akshata Desai for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

API Mr. S. Y. Kamuni from MIDC Police Station, Mumbai, is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 9th SEPTEMBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 524 of 2018 registered with the MIDC Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420, 468, 471 r/w 34 of the Indian Penal Code.

3 Perused the papers. According to the complainant-Raviprasad Shukla, Assistant Vice President of Capital First Home Finance Ltd.

(`Capital First Ltd.'), the said Company was engaged in the business of giving housing loans/personal loans, etc. According to the complainant, the co-accused-Sudhakar Jadhav had applied for a housing loan of Rs. 30,00,000/- for purchasing a flat from Saijyot Enterprises. It is alleged that co-accused-Paneer Anutu had also applied for a housing loan of Rs. 30,00,000/- for purchasing a flat from Sairaj Builders and Developers. Similarly, co-accused-Jayesh Kamble had also applied for a housing loan of Rs. 37,00,000/- for purchasing a flat from Sairaj Builders and Developers. It is alleged that the co-accused-Makrand Hule was working as a Sales Executive of that company i.e. Capital First Ltd. and that all the aforesaid applications were processed by the said co-accused i.e. Makrand Hule. It is alleged that after processing the said application, Makrand Hule forwarded the same to the Credit Department of the Company, after which, housing loan of Rs. 28,64,905/- was sanctioned in the name of the co-accused-Sudhakar Jadhav and different amounts in the name of the co-accused i.e. Paneer Anutu and Jayesh Kamble. It is alleged that the amount sanctioned in favour of the co-accused-Sudhakar Jadhav was disbursed in the account of Saijyot Enterprises. According to the complainant, the said amount transmitted in the account of Saijyot Enterprises, was a fake account. It is further alleged by the prosecution that the said account in which the money was transferred, was opened in the name of the present applicant-Ashish

Pawar and that the said amount was subsequently transferred from Ashish Pawar's account into Shripal's account by RTGS. It is further alleged that an amount of Rs. 2,00,000/- was transferred to the present applicant's account, by RTGS from Shripal's account.

4 Learned counsel for the applicant states that the applicant was an employee of Shripal Pawar and was also Shripal Pawar's nephew. He submits that the applicant had no knowledge that the amount which had come to his account was pursuant to the fraud played by the co-accused-Shripal and others on Capital First Ltd. He further submits that the applicant has no antecedents and has been made a pawn in the said fraud by the other accused.

5 Learned A.P.P. has opposed the bail application.

6 A perusal of the statement of accounts shows that the amounts received by the said applicant were transferred by him in the account of Shripal Pawar of R. K. Enterprises. Whether or not the applicant is involved in the aforesaid crime, is a matter which will be decided by the trial Court. The applicant is in custody since 17th December 2018.

Investigation is complete and charge-sheet is filed.

7 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two local sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 12:00 noon, for a period of 24 months from the date of his release;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is accordingly disposed of.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.