IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE SIDE
CRIMINAL BAIL APPLICATION NO.1528 OF 2017

Santosh Shankar Ingle ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr.Nitin Pradhan, advocate for the applicant
Mr.Pravin Chavan, Special Public Prosecutor for Respondent-State.

CORAM : NITIN W. SAMBRE, J.
Reserved on : January, 22, 2019.
Pronounced on : March, 29, 2019.

P.C.:

The applicant, a public servant, is seeking regular bail in Crime No.336/15 registered with Dahisar Police Station, for the offences punishable under Sections 406, 409, 420, 465, 467, 468, 471, 384, 120-B, 201, read with Section 34 of the Indian Penal Code; and under Sections 7 and 13(1)(C)(D) of the Prevention of Corruption Act.

2 The applicant was arrested on February 25, 2015 and came to be charge sheeted pursuant to the offence registered on July 18, 2015.

3 The facts necessary for deciding the application are as under:

After getting appointment as Office Assistant in 1985 in *SahityaRatna Lokshahir Annabhau Sathe Vikas Mahamandal*, the applicant was promoted to the post of District Manager, DGM, Additional Managing Director and In-charge Managing Director.

Co-accused Ramesh Kadam, MLA, on August 13, 2012, was appointed as Chairman of the said *Mahamandal*, during which period, applicant was holding charge of the post of Managing Director from 29.06.2012 to 31.03.2014. It is the case of the applicant that he had resigned on February 4, 2014 and came to be retired from the services of the Corporation on June 30, 2014.

4 Prosecution case against the applicant is, in the capacity of senior officer of the said Corporation, applicant, in connivance with the Chairman of the Corporation i.e. co-accused Mr.Ramesh Kadam, Ex-MLA, caused defalcation of public money which runs into crores of Rupees. Amongst other, the public funds of the Corporation meant for providing job opportunities, financial assistance, etc. to the candidates from social and financial backward categories, were misappropriated.

(A)	Purchase of Computers worth Rs.2.5 crores;	Co-accused no.10 – Supplier came to have deposited amount of Rs.3.15 crores and released on bail.
(B)	Purchase of plot for setting up Centre at Aurangabad; (Resolution No.77/2011 – Cost: Rs.11.40 Crores Part of the land was purchased in the name of co-accused Ramesh Kadam out of the funds.	Rs.3 Crores paid to co-accused no.11, namely Pawandeepsingh Mahendrasingh Kohli and Rs.3.10 crores to one Dhruv Pitti.
(C)	Sale of Plot at Nasik admeasuring 800 square meters in connivance of co-accused.	

(D)	Sanction of Rs.41.37 Crores to one Joshaba Madhyawarti Sahayak Grahak Sanstha and disbursed in 4 instalments.	
(E)	Rs.45 Crores were sanctioned and disbursed in favour of weaving mill.	
(F)	Purchase of residential flat in the name of Corporation for Rs.1,89,70,000/-.	
(G)	Illegal appointments of 19 candidates;	
(H)	Misappropriation of Rs.34 Crores by the applicant;	

5 In the aforesaid background, while trying to make out a case for grant of bail, learned Counsel for the applicant, Shri Pradhan, would strenuously urge that till date from 2015 onwards, almost six charge sheets have been filed against various accused persons. According to him, as such, it could be inferred that investigation in the matter is almost over. He would then urge that the allegations in the charge sheet against the applicant, if appreciated, it is clear that neither there is any recovery of alleged misappropriated amount nor the amount was usurped by the applicant for personal gain. According to him, the other Government nominees to the Board of Directors of the Corporation, who are IAS officers and similarly placed, are not arrayed as co-accused. He would then urge that the participation and the decisions of the applicant as regards disbursement of amounts are in his official capacity, which he was duty bound to comply with pursuant to the orders of either the Chairman or that of the Board of Directors. That being so, he submits that the applicant is entitled to be released on bail.

6 Shri Pradhan, advocate, would draw support from

various judgments of the Apex Court so as to submit that further custodial detention of the applicant is not required. According to him, considering the maximum punishment provided, the applicant is entitled to be released on bail. He would place reliance upon the judgment of the Apex Court in the matter of **Sanjay Chandra Vs. CBI**, reported in 2011 DGLS (SC) 935 = (2012 AIR SC 830); so also other similar decisions. He would also claim that trial is not likely to be concluded in recent future and that being so, the benefit of regular bail needs to be extended to the applicant. The learned Counsel then would urge that of the total accused persons majority are already released on bail and that being so, the applicant is entitled to be released on bail.

7 *Per contra,* the learned Special Public Prosecutor would strenuously oppose grant of bail and submits that the loss caused to the Corporation runs into more than Rs.100 crores. According to him, present applicant has exceeded his official duties and has illegally released the amounts so as to please accused no.1 and to draw illegal financial benefits. He has relied upon the statements of witnesses and the investigation carried out till date so as to infer *prima facie* involvement of the applicant in the crime.

8 Having considered the rival contentions, what is noticed is the investigation in the matter is still going on. The offence in question is based upon the mis-appropriation of amount of public Corporation, which was meant for candidates belonging to economically and socially weaker sections. As such, the offence can be termed as an economic one. The applicant, *prima facie*, appears to have disbursed the amount knowing fully well that the cause for which the amount was illegally disbursed was not within

the aims and objects of the Corporation. Applicant is trying to take shelter of the resolutions illegally passed by the Managing Body of the Corporation and also the instructions issued by the Chairman of the Corporation. The applicant should have acted as a watchdog and should not have exceeded his limits so as to cause huge financial loss to the Corporation. Dishonest intention so as to have illegal financial gains is apparent from the material available on record.

9 It is needless to mention that co-accused Pawandeepsingh Kohli, a private businessman, owner of SUV, a four-wheeler, and party to the conspiracy, appears to be illegally benefitted out of the disbursement made by the applicant. The said SUV vehicle was seized from the custody of the applicant and his decisions of disbursement of amount in favour of Pawandeepsingh Kohili and other co-accused including Chairman, in voluminous terms, speaks of the conspiracy, exceeding of financial limits, disbursement of amount without following due procedure, thereby causing huge financial loss to the public exchequer.

10 Apart from above, the economical offences need to be categorised altogether differently and are of exceptional class. Such matters particularly relating to prosecution and bail applications are required to be decided with different approach than the regular bail matters. The reason being, causing financial and economical loss to the public exchequer are based upon deep rooted conspiracies and as such needs to be viewed seriously. Because of the act of the applicant, the entire financial structure of the Corporation has reached to lowest pedestal resulting into

causing a serious threat to the financial health of the said Corporation. In this respect, appropriate support can be drawn from the judgment of the Apex Court, in the matter of **Nimmagadda Prasad Vs. Central Bureau of Investigation**, reported in (2013) 7 SCC 466, para 25.

11 Apart from above, if the applicant is released in a serious economical offence like the one, there is every likelihood that the applicant may tamper with the investigation; and it is in the interest of the community/society at large to continue the applicant in detention during pendency of the prosecution. A support, to that effect, can be drawn from the judgment of the Apex Court in the matter of **Masroor Vs. State of Uttar Pradesh & another**, reported in 2009 (14) SCC 286.

12 Apart from above, considering the facts and circumstances of the case in question, role attributed to the applicant in the commission of crime, *prima facie* material available to that effect in support thereof on record, it is contemplated that in the public interest, the applicant should continue to be in the custody. That being so, there is no case made out for grant of bail.

13 Application fails and stands rejected.

[NITIN W. SAMBRE, J.]

adb