IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE SIDE
CRIMINAL BAIL APPLICATION NO.2627 OF 2018

Indira Karkera ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr.I.S.Thakur, advocate i/by Global Juris Consults, for the applicant.
Ms.Sharmila S. Kaushik, APP for Respondent-State.
Mr.Dhananjay Deodikar, EOW, Unit V, Mumbai.

WITH
INTERVENTION APPLICATION NO.1562 OF 2018
IN
CRIMINAL BAIL APPLICATION NO.2627 OF 2018

Britannia Industries Ltd. ... Applicant

And

Smt.Indira Prashant Karkera

Versus

The State of Maharashtra

Mr.Aabad H.H.Ponda, advocate i/by Milan Hebbali, advocate for applicant in Application No.1562 of 2018.
Mr.I.S.Thakur, advocate i/by Global Juris Consults, for the applicant – Smt.Indira Karkera
Ms.Sharmila S. Kaushik, APP for Respondent-State.

CORAM : NITIN W. SAMBRE, J.
DATE : 07th February, 2019.

P.C. :

On April 6, 2016, pursuant to FIR, an offence came to be registered based on the complaint of Rajesh Bishandass Arora, General Manager (Legal), Britannia Industries Limited (herein after referred to as "BIL", for the sake of brevity). The applicant came to be arrested on May 5, 2016 and was subjected to custodial interrogation for an offence punishable under Sections 409, 420, 467, 471, 472, 477(A), 120-B read with 34 of the Indian Penal Code in Crime No.24/2016 registered with Economic Offence Wing, which was initially registered as Crime No.183/16 with Sakinaka Police Station.

2 The prosecution case against the applicant is:

Applicant is the Vice President of M/s Sharepro Services (I) Pvt.Ltd., who was appointed as a Registrar and Transfer Agent. The said Sharepro Services (I) Private Limited was entrusted with a duty to act as share transfer agent for and on behalf of "BIL" so as to maintain records of holders of securities issued by said "BIL". The Sharepro Services (I) Pvt. Ltd. was also required to deal with the matters regarding transfer and redemption of securities, transfer of shares, dividends, redemption of shares, etc.

3 It was expected of said Sharepro Services (I) Pvt. Ltd. to pass on the benefits on behalf of "BIL" to rightful share holders and to act in trust on its behalf. On January 9, 2016, anonymous letter was issued alleging that the present applicant has taken physical custody of 33750 share certificates of Mr.Sujitkumar

Gupta to open DMAT account in the name of one Mr.Balram Sanjay Mukherjee and transferred 3500 shares which were, in turn, transferred in the account of Prashant Karkera. It is claimed that the said shares were sold in open market and the amounts were transferred in the name of said Mr.Balram Mukherjee. The applicant, along with its Managing Director and other staff, hatched a criminal conspiracy with dishonest intention and shares worth more than Rs.10 crores of Mr.Sujitkumar Gupta were mismanaged drawing financial benefits out of the same resulting into registration of crime for cheating, forgery, criminal breach of trust, forgery of court records, etc.

4 After the applicant was arrested, she was came to be chargesheeted and the matter was adjourned for more than fifty times by the trial Court. The bail applications preferred by the applicant came to be rejected. As such, the present bail application on the ground that the applicant, a female, who is detained for more than three years and whose trial is not proceeding ahead, needs to be released.

5 Amongst other submissions of the learned Counsel for the applicant are:

On August 01, 2016, the charge sheet was filed and till date charge is not framed. According to him, the chargesheet runs into voluminous pages and there is no likelihood of completion of trial in recent future. It is further claimed that investigation in the matter is already over and the applicant, a female, is very much available to face the trial. It is further claimed that the essential ingredients of Sections 409 and 467 are not satisfied, particularly when the entrustment and domain over the property, which are essential elements to invoke said provisions, are not demonstrated in the charge sheet.

6 Learned Counsel for the applicant, even on merits, tried to prevail upon the Court to reach to a conclusion that there is no sufficient material to infer *prima facie* involvement of the applicant in the crime in question. Apart from above, reliance is placed by the applicant on the judgment in the matter **Sanjay Chandra Vs. CBI**, reported in AIR 2012 SC 830, **Sharad T. Kabra Vs. Union of India, delivered in Criminal Appeal No.1420 of 2017**, reported in 2017 (4) Crimes SC 448 and **Parvat Kumar Dash Vs. CBI**, reported in 2017 (8) SCC 453.

7 Learned Counsel Mr.Aabad H.H.Ponda has assisted the learned A.P.P. while opposing the prayer for grant of bail.

8 While countering the aforesaid submissions, learned A.P.P. submits that the applicant is Vice President of M/s Sharepro Services (I) Private Limited, who was appointed as a share transfer agent and admittedly, the applicant has taken decision (fraudulent) by hatching conspiracy with other co-accused and practiced fraud, cheated the rightful share holders, so also the complainant Company. According to her, the investigation depicts that the applicant was instrumental in siphoning dividends of the clients of the Complainant Company and as such, huge amount is misappropriated. The learned A.P.P. has placed reliance upon the statements of various witnesses so as to take

this Court to the conclusion that there is strong material available on record so as to infer *prima facie* involvement of the applicant in the crime.

9 Having considered the rival submissions, what can be noticed is, the applicant, a 55 years aged lady is in custody for a period of almost three years i.e. from the date of her arrest. There are no convincing grounds, which prompts further detention or continuation of the applicant in the custody, as investigation in the matter is already over. As such, it can be inferred from the record that the applicant had undergone pre-trial incarceration of about three years. Considering the fact that the offence is triable by the Magistrate, in view of voluminous chargesheet is already on record, conclusion of the trial, in the recent future, does not appear to be a reality, release of other co-accused on regular bail, in my opinion, a case for grant of bail is made out.

10 In that view of the matter, instant application stands allowed. On execution of P.R. bond in the sum of Rs.1,00,000/- (Rs.One lakh) with one or more sureties, the applicant be released on bail in Crime No.24/2016, registered with Economic Offence Wing V (initially registered as Crime No.183/2016, registered with Sakinaka Police |Station), for the offences punishable under Sections 409, 420, 467, 471, 472, 477(A), 120-B read with Section 34 of the Indian Penal Code. The applicant shall not tamper with the evidence or influence the witnesses. The applicant shall attend the trial without default. In case, if the learned Magistrate notices intentional default or an attempt on the part of the applicant to prolong the trial, the Metropolitan Magistrate to take out

proceedings for cancellation of bail. If not already deposited, the applicant shall deposit her passport with the Court of Metropolitan Magistrate dealing with the trial immediately, after her release.

11 Criminal Application (Intervention) No.1562 of 2018 stands disposed of.

NITIN W. SAMBRE
JUDGE

adb