IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3004 OF 2019

Dr.Amit Naginbhai Shah .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Rajiv Chavan, Senior Advocate a/w. Ms.Priyanka Chavan and Ms.Sumangala Chavan i/b. Mr.Vikas Kapil, Advocate for the Applicant.

Mr.H.J. Dedhia, APP for the Respondent – State.

Ms.Varsha Gheware, Dy. S.P. Flying Squad, Pune, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : NOVEMBER 29, 2019.

P.C. :

This is an application for bail in connection with C.R.No.107 of 1997, registered with Faraskhana police station, Pune City, for the offences punishable under section 467, 468, 471, 409, 420 and 120-B of Indian Penal Code ("IPC", for short). The investigation was subsequently transferred to Flying Squad, Crime Branch, Pune. The Applicant was arrested on 12th September, 2019.

2 The case of the prosecution is that Gopal Shrikant Rathi lodged First Information Report ("FIR", for short) on 29th July, 1997. He was running a business of share broking and finance firm having registration in Pune Stock Exchange. The co-accused Mangal Jain, is also in the business as share broker in Indo-American Credit Corporation Limited, Ahmadabad, and, against it he obtained money from the said companies. Initially he gave interest as well as settlement amount to the said company. Co-accused Mangal Jain transferred the said amount to one Bharat Khona and in return, Bharat Khona gave him shares for the pledging. It is also alleged that on 29th June, 1996, the informant's accountant had brought share of Rs.15,000/- of American Credit Corporation, Ahmadabad, for transfer and the said 150 certificates with E.D. were sent to Silver Line Computer Centre Ahmadabad. However, the transfer of shares were restrained by share company. On 18th January, 1997 said shares were transferred. The Directors of the said company sent duplicate shares with intention to pledge through Bharat Khona and Mangal Jain and, thus, deceived the complainant for an amount of Rs.1,95,000/-. The Director of American Credit Corporation, Ahmadabad and directors of the other companies hatched conspiracy by inflating the value of shares for obtaining

finance and the informant was deceived total amount of Rs.86,32,000/-.

3 Learned Counsel for the Applicant submits that the Applicant has resigned from the company on 2nd January, 1995. Admittedly, the shares were transferred and the alleged offence of deceiving the complainant had occurred in 1997. In the circumstances, the Applicant has no role to play in the said transaction. It is submitted that the letter issued by Indo-American Credit Corporation Limited, Ahmadabad on 24th May, 1992, was not signed by the Applicant. It is signed by another person. That the prosecution proceeds on basis that 15,000/- shares of Indo-American Credit Corporation Limited, Ahmadabad, were pledged and it was revealed that the said shares were bogus hence, the same were returned on 29th June, 1996, for transfer to the company and instead of transferring the shares, the other shares were sent on 18th November, 1997. Thus, admittedly, the said act was committed after the applicant had resigned from the Company. It is contended that the Applicant has resigned from the aforesaid company on 2nd January, 1995. The copy of Form 32 is annexed to the Application. It is submitted that the Applicant is an ophthalmology medical practitioner for more than 30 years.

He runs a laser surgery clinic in the name Cure Spects Eye Cars Laser Limited. He was associated with Gujarat Medical Statutory Body under Indian Medical Council Act. He has been arrested from his residence. It is difficult to believe that Applicant was absconding. The applicant is a survivor of cancer of kidney, has a vascular Necrosis (deterioration of hip joint due to lack of blood supply) which requires total heap replacement surgery. He had been admitted to Sasoon Hospital on account of severe pain in hips because of necrosis of femur head. Documents relating to illness are annexed to Application. It is further submitted that all other accused have been granted bail. The co-accused Rajan Mehta was granted bail during pendency of investigation and before filing of charge–sheet. It is further submitted that the prosecution has alleged that Applicant was absconding. However, he was arrested in connection with two other cases registered against him and he was granted bail. He further submitted that the proceedings in connection with two other cases are pending before the competent Court at Pune and he was represented by advocate in the said proceedings. Applications were made for exemption for appearing before the said Court in the said proceedings, which would show that the Applicant was not absconding. He submitted that the Applicant has a fixed place of residence. He was all the time available at his residence. There is nothing on record to show that he was absconding.

4 Learned APP submitted that on completing investigation charge–sheet has been filed against the Applicant. He submitted that the letter dated 24th May, 1995 appears to have been wrongly dated as the cheque was of the year 1994. However, the fact remains that the letter was signed by some other person and not by the Applicant. It is submitted that the Applicant was not available for the purpose of investigation until he was arrested after several years. He was absconding. He was managing director of Indo–Amercian Credit Corporation Limited. He submitted that the investigation is transferred to Flying Squad, Crime Branch, Pune. It is submitted that in the year 2014, Non Bailable Warrant was issued against the Applicant and subsequently the red corner notice has been issued in 2018. The fact remains that there is no nothing to show that prior to that any action was initiated against the Applicant in that regard although the FIR was registered in the year 1997.

5 Admittedly, the Applicant has been granted bail in two other cases, which are pending before the competent Court.

In C.R.No.131 of 1997, the Applicant was arrested on 3rd October, 1997 and enlarged on bail on 13th October, 1997. In C.R.No.151 of 1996, he was arrested on 13th October, 1997 and he was enlarged on bail. It is stated that charge–sheet are filed in these cases which are pending in Court at Pune. All the other accused are released on bail one of them is before the filing of the charge–sheet. The Applicant had resigned from the subject company on 2nd January, 1995. Shares were found to be bogus in 1996. Investigation is complete and charge–sheet is filed. Further detention is not required. It is also apparent from the medical case papers that the Applicant is ailing. Taking in to consideration the aforesaid circumstances, bail can be granted on certain conditions.

5 Hence, I pass the following order:

:: O R D E R ::

(i) Bail Application No.3004 of 2019, is allowed;

(ii) The Applicant be released on bail in connection with C.R.No.107 of 1997, registered with Faraskhana police station, Pune and investigated by Flying Squad, Crime Branch, Pune, on his furnishing P.R. Bond in the sum of Rs.50,000/-, with one or two sureties in the like amount;

(iii) The Applicant shall attend the Flying Squad, Crime Branch, Pune, once in a month on first Saturday of the month between 10:00 a.m. to 12:00 noon, till further orders (excluding the period in which he is hospitalized for undergoing treatment);

(iv) Bail Application stands disposed of.

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