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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2778 OF 2018

Hasmukh Lilachand Shah ..**Applicant**
Vs
Central Bureau of Investigation & Anr. ..**Respondents**

Mr. Niranjan Mundargi I/b Tariq Khan for the Applicant.
Ms. Rebecca Gonsalvez, Special P.P. a/w Mr. Limosin for respondent No.1.
Mr. Amit Palkar, APP for the State.

CORAM : A.S.GADKARI, J.
DATE : 24th April 2019.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No. RCBSM 2016 E 0015 dated 24.6.2016 registered with CBI, BS & FC, E.O.W., Mumbai under sections 120-B, read with 420, 409 of the Indian Penal Code and 13(2) read with 13(1)(d) of Prevention of Corruption Act.

2] Heard the learned Counsel for the applicant and the learned Special PP. Perused the entire chargesheet.

3] The first information report is lodged by Shri Anil Rokade, Deputy General Manager, Circle Office, Canara Bank, Maker Tower, Cuffe Parade, Mumbai. It is the prosecution case that, the principal accused Jatin

Mehta (accused No.1) is the promoter and owner of Su-Raj Group of companies. The said Group of Companies is having various sister concerns including Companies namely M/s Forever Precious Jewellery and Diamonds Ltd and M/s Winsome Diamonds and Jewellery Ltd. The applicant is alleged to be an employee of the said companies and the next in commend in hierarchy after the principal accused Jatin Mehta. The accused persons approached Canara Bank for getting financial facilities against Standby Letters of Credit (SBLCs) allegedly issued by Standard Chartered Bank. That accused persons after getting financial facilities from the Canra Bank, committed defalcation of approximately Rs.150 Croes of the said funds. It is the further prosecution case that, accused persons by making false representation, prompted the said bank to advance the aforestated finance and subsequently defalcated it.

4] The learned counsel for the applicant submitted that, the applicant was a mere employee of the said companies owned principal accused Jatin Mehta. That he was working in the Su-Raj Group of Companies for more than 30 years and is not beneficiary of the proceeds of the present crime. The applicant was getting salary and apart from the same, has no role to play in the present crime. That whatever transactions conducted by the applicant in India were under the directions of said Jatin Mehta who is stationed at abroad. That there is no material on record to allege that the applicant hatched conspiracy with the said Jatin Mehta. He submitted that, the bank officers who were involved in the present crime have been released on bail by the Trial Court and it is only the applicant who is still behind bars. He submitted that, the applicant is a senior citizen and there is no possibility of his abscondance. He therefore submitted that, the applicant may be released on bail by allowing the present application.

Per contra, the learned Special PP vehemently opposed the application and submitted that there is sufficient material on record to show the clear complicity of the applicant in the present crime and therefore he may not be refund on bail and the present application may be rejected.

5] Perusal of chargesheet would clearly indicate that, the applicant used to instruct his sub-ordinate staff and was having interaction with the bank employees for getting finance to the said companies. The statements of witnesses further indicate that, under the instructions of principal accused Jatin Mehta, the applicant was acting as intermediary in getting the said financial assistance from Canara Bank. The witnesses have clearly stated that, the applicant used to direct them to hand over certain documents which he thereafter used to submit to the Canara Bank. The alleged transactions pertaining to the said documents were kept secret from the other staff members of the Companies. It appears that, the other staff of the company did not have knowledge about those documents. The applicant directed the staff to hand over the documents to him alone.

6] The Honourable Supreme Court in the case of Nimmagadda Prasad Vs. Central Bureau of Investigation reported in *(2013) 7 SCC 466* in Para No.25 has held as under:-

> "Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offence having deep rooted conspiracies and involving huge loss of public funds needs to be viewed seriously and considered as a grave offence affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country".

Undoubtedly the present crime lodged against the applicant is an economic offence and requires to be dealt with it differently. The amount involved in the present crime of Rs.150 Crores has been defalcated by the accused belongs to the Public Sector Bank which cannot lost sight of. There is sufficient material available on record to show the clear complicity of the applicant in the present crime.

7] After taking into consideration the nature and gravity of offence, this Court is of the opinion that the applicant does not deserve to be released on bail.

8] Application is accordingly rejected.

(A.S.GADKARI, J.)