IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (BA) No. 212 of 2020

Anagha w/o Nikhil Bhusari Vs. State Through Police Station Lakadganj, Nagpur

WITH

LD-VC-BA NO. 17 OF 2020

Vikki Rameshkumar Jat Vs. State Through Police Station Lakadganj, Nagpur

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. Subodh Dharmadhikari, Senior Advocate a/b Mr. A.M. Sudame for the applicant.
Mr. N.B. Jawade, APP for the respondent - State

CORAM : MANISH PITALE, J.

DATED : JUNE 12, 2020

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. These are applications for bail moved on behalf of two accused persons concerning an FIR dated 11/07/2019, registered at Lakadganj Police Station, Nagpur for offences under Sections 406, 409, 417, 419, 420, 465, 466, 467, 468, 469, 471, 472, 474, 120(B) R/w 34 of the Indian Penal Code.

3. The allegation against the applicants is that being the Branch Manager (Applicant in Criminal Application – BA No.

212/2020) and a Clerk (Applicant in LD-VC-BA No. 17/2020) of the concerned branch of Andhra Bank, they actively connived with other accused persons for disbursal of loans illegally to the extent of more than Rs. Nine Cores, in the name of persons, who had not even applied for grant of such loans.

4. In the case of applicant in BA No. 212/2020, this Court on 23/04/2020 granted temporary/interim bail and while doing so observed as follows :

> "5. It is submitted that applicant lady is having a small daughter aged four years at her house. Learned Senior Advocate has submitted that the trial Court while rejecting bail, has assigned one of the reason that the applicant owns a bungalow but, the source was not disclosed. Prima facie, he clarified said thing and took me through some of documents to show that applicant raised loan from L.I.C. Moreover, it is submitted that applicant's husband is Regional Manager in Pharma Company and therefore, she has sufficient source to raise loan.
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> 6. Undisputedly, applicant after arrest, was in police custody and faced custodial investigation. Charge-sheet is already filed. Considering that the applicant is female, charge-sheet is filed and other circumstances, including current pandemic situation, I deem it appropriate to grant interim bail, hence, following order.
>
> (I) The applicant be released on interim bail on her funishing P.R. Bond of Rs.50,000/- with one surety in the like amount.
>
> (II) Applicant shall deposit her pass-port with the Investigating Officer which will be the subject of final out-come of bail.
>
> (III) Applicant shall not leave the city limit of Nagpur till disposal of the bail application.
>
> (IV) The applicant shall not enter into the concerned Bank for any purpose unless permitted by this Court.
>
> (V) The applicant shall attend concerned Police Station as and when required.
>
> (VI) Applicant shall not pressurize or contact with the Bank employees or the borrowers in any manner."

5. On the same day, a slight modification in the order was made pertaining to the P.R. Bond to be submitted by the applicant herein as also regarding deposit of passport, as the said applicant does not possess a passport. As a consequence, the applicant in the said application has been on temporary / interim bail during pendency of the application.

6. In so far as applicant in LD-VC-BA No. 17 of 2020 is concerned, notice was issued and reply has been filed.

7. The learned senior counsel appearing for the applicant in BA No. 212/2020, submitted that initially she had applied for grant of anticipatory bail, but, the same was rejected by the Sessions Court, this Court as well as the Hon'ble Supreme Court. But, during pendency of the application, she had enjoyed interim protection. Ultimately, upon rejection of her special leave petition by the Supreme Court, the applicant had surrendered on 04/11/2019. As she was granted temporary / interim bail on 23/04/2020, she was behind bars for about six months. It is submitted on behalf of the applicant that the investigation is now completed and chargesheet has been already filed. It is further submitted that there is no contention raised on behalf of the non-applicant – State that the applicant has in any manner violated the conditions imposed by this Court by order dated 23/04/2020. It is further submitted that the evidence in the present matter is largely documentary in nature and that the investigating authority has already seized all the documents. It is further submitted that there are 58 witnesses to be examined and chargesheet itself runs into thousands of pages. It is further submitted that no purpose

would be served by taking the applicant back in custody and that the present application deserves to be allowed in the interest of justice, by confirming temporary / interim bail granted by this Court. The learned counsel relied upon the judgment in the case of **P. Chidambaram Vs. Central Bureau of Investigation 2019 SCC OnLine SC 1380** to contend that the well-settled principles concerning question of grant of bail to the accused have been reiterated in the said judgment and relevant observations have been made on the aspect of "flight risk" of economic offenders. According to the learned senior counsel, there is no risk of the applicant seeking to avoid the course of justice and that she undertakes to co-operate with the Trial Court proceedings as also the investigating authority in the future. On this basis, it was submitted that the application deserves to be allowed.

8. In so far as LD-VC-BA No. 17 of 2020 is concerned, it is submitted that the applicant herein was a mere Clerk working under the instructions of his senior in the concerned branch of the bank. It was further submitted that much emphasis was placed by the prosecution on certain amount transferred into the account of the applicant. But, the same has been explained as a loan received by the applicant for his marriage, which was promptly returned to one of the co-accused persons. It was submitted that since the chargesheet has been already filed and the applicant was ready to co-operate with the prosecution, there was no necessity to continue the incarceration of the applicant, who was behind bars for seven months.

9. Mr. N.B. Jawade, learned APP for the State has vehemently opposed the present applications. Attention of this Court was

invited to various documents on record to undertake that it was not a case merely of negligence on the part of the applicants, but, that it was a case of active connivance with co-accused persons in the matter of illegal disbursal of loans to the tune of more than Rs. Nine Crores. The learned APP emphasized on the documents, including loan application forms showing that even basic information was not recorded and huge amounts of loan were disbursed to the co-accused persons, thereby showing that the applicants were actively involved and they had benefited from the illegal activities of the co-accused persons.

10. It was further submitted that a clinching piece of material on record was transfer of amount of Rs.2,50,000/- from the personal account of the applicant in BA No. 212/2020 into the account of co-accused person Mr. Amit Bhagat, thereby indicating that the said applicant had facilitated the illegal activities of co-accused persons. On this basis, it was submitted that since there was ample material to show the involvement of the applicant in the offences under the present case, which, inter-alia provided for sentence of life imprisonment, leniency ought not to be shown to the applicants. On this basis, it was submitted that the applications deserved to be dismissed.

11. Having heard the learned counsel for the applicants and learned APP and upon perusal of the material brought to the notice of this Court, prima facie involvement of the applicants in the present case cannot be ruled out. It is very clear from the material on record that the activities of the applicants herein prima facie appear to be beyond mere negligence and in fact they do indicate active connivance with the co-accused persons for

disbursal of loans in illegal manner to the tune of crores of rupees. This is particularly noticeable since the present case involves a nationalized bank of which the applicants were Manager and Clerk. To that extent the learned APP is justified in opposing grant of bail to the applicants. But, it cannot be ignored that while considering the question of grant or refusal of bail to the accused it is not only the material showing prima faice involvement of the accused that assumes significance, but the other significant aspect would be the possibility of the accused avoiding the course of justice or adversely affecting the prosecution, if they were to be set at liberty by allowing their applications for grant of bail. In the present case, there is no dispute about the fact that the chargesheet has been already submitted and supplementary chargesheet has also been submitted. According to learned APP, further investigation is being undertaken by the Economic Offences Wing, which was initially hampered due to the investigation being carried out by the local police authorities. Be that as it may, as of now chargesheet and supplementary chargesheet are already on record. There is no dispute about the fact that the chargesheet and supplementary chargesheet run into thousands of pages and the prosecution, as of today, intends to examine about 58 witnesses, thereby indicating that the trial would take its own time. There can be no doubt about the fact that although the documents on record do indicate prima facie involvement of the applicants in the offences in question, they would still have to be proved by the prosecution during the course of trial. There is also nothing to show that granting bail to the applicants would adversely affect the prosecution. The applicants have been able to show that there cases fall within the principles for grant of bail laid down in number of judgements and reiterated in the aforesaid recent judgement of the Supreme Court in the case of P. Chidambaram Vs. C.B.I. (supra).

12. In so far as applicant in BA No.212/2020, by order dated 23/04/2020, she was granted temporary / interim bail by this Court by imposing specific conditions. There is nothing on record to show that the said applicant has violated any of the said conditions. An undertaking has been given on her behalf that she would be co-operating with further investigation. In so far as applicant in LD-VC-BA No. 17 of 2020 is concerned, this Court finds that as he was working in the capacity of Clerk in the concerned Branch of the bank, there is material on record showing his prima facie involvement in the offence, but there is nothing to show that enlarging him on bail would adversely affect the prosecution or the Trial Court proceedings.

13. There is also no dispute about the fact that the applicant in BA No.212/2020 remained in custody from 04/11/2019 to 23/04/2020 and that the applicant in LD-VC-BA No. 17 of 2020 has been in custody for about 7 months. Considering these aspects of the matter, this Court is of the opinion that the present applications deserve to be allowed and appropriate conditions can be imposed on the applicants.

14. In view of above, the applicant in Criminal Application (BA) No. 212/2020 is allowed and the applicant therein is granted bail on the very same conditions on which she granted temporary / interim bail by order dated 23/04/2020 except deposit of passport, as she does not have a passport. On the insistence of the

learned APP, the following conditions are further imposed in her case.

(1) The applicant shall continue to co-operate with the investigation which intends to carry out further investigation in the matter.

(2) The applicant undertakes not to deal with or in any manner tamper with or destroy documents that may concern the present case.

(3) Condition No. (V) in order dated 23/04/2020 is modified to the extent that the applicant shall attend office of the Economic Offences Wing, Nagpur twice a week i.e. on Monday and Friday of every week so as to ensure co-operation with the authorities.

15. In so far as applicant in LD-VC-BA No. 17 of 2020 is concerned, the application is allowed on the following terms:

(I) The applicant shall be released on bail on furnishing PR bond of Rs.30,000/- and surety in the like amount.

(II) The applicant shall deposit his passport with the investigating authority, within two weeks of his release, subject to final outcome of the trial.

(III) The applicant shall not leave the city limits of Nagpur, unless permitted by this Court.

(IV) The applicant shall not enter the premises of the concerned Bank unless permitted by this Court.

(V) The applicant shall attend office of the Economic Offences Wing once a week i.e. on Monday.

(VI) The applicant shall co-operate with the investigation and not tamper with the evidence in any manner.

(VII) The applicant shall not contact any of the employees of the bank or in any manner pressurize them or witnesses in the present case.

16. The applications are allowed in above terms.

17. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

MP Deshpande