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

CRIMINAL BAIL APPLICATION (BA) NO. 523 OF 2020
Ashok Shankarrao Dhawad, Nagpur
Vs.
State of Maharashtra

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

Shri S.P. Dharmadhikari, Senior Advocate with Shri D.V. Chauhan, Advocate for the applicant.
Shri S.M. Ghodeswar, A.P.P. for the respondent/State.

CORAM : PUSHPA V. GANEDIWALA, J.

DATED : NOVEMBER 24, 2020.

Heard Shri S.P. Dharmadhikari, learned Senior Counsel with Shri D.V. Chauhan, learned counsel for the applicant and Shri S.M. Ghodeswar, learned A.P.P. for the respondent/State.

2. This is an application for grant of regular bail in Crime No. 181/2019 dated 15/05/2019, registered at Police Station, Dhantoli, District Nagpur City for the offences punishable under Sections 406, 409, 420, 465, 468, 471, 477A, 120B and 201 of the Indian Penal Code, 1860, Section 3 of the Maharashtra Protection of Interest of Depositors Act, 1999 and Sections 65 and 66B of the Information Technology Act, 2000.

3. Before approaching for regular bail, the applicant tried his luck for anticipatory bail, till up to the Supreme Court. The Hon'ble Supreme Court, while

dismissing the S.L.P. bearing No. 7783/2019 dated 15/10/2019, passed the following order :-

> *" We are not inclined to interfere with the impugned order.*
> *The Special Leave Petition is dismissed.*
> *Pending applications stand disposed of.*
> *We, however, grant three weeks' time to the petitioner to surrender and apply for regular bail which, needless to say, will be considered as expeditiously as possible, uninfluenced by the impugned order or the orders passed by us"*

4. As directed, the applicant surrendered on 05/11/2019 and since then, he is in jail.

5. The prosecution case is that at the instance of one Shrikant Supe, Sub-Auditor for the Navodaya Urban Co-operative Bank Ltd., Nagpur, a report came to be lodged alleging therein many irregularities in various transactions due to which the Bank has suffered loss and the deposits to tune of Rs.38 crores of the investors were misappropriated during the period between 2015-16 to 2016-17.

6. It is stated that the applicant was the Chairman of the aforesaid Bank and also heading the Settlement Committee constituted by the Bank for grant of benefit under the one time settlement scheme. It is the specific allegation against the applicant that he had acted against the interest of the depositors and distributed huge loan by raising the valuation of the property mortgaged.

7. It is further alleged that the Investigation Officer during investigation came across various transactions in which huge amount has been withdrawn by the present applicant by debit vouchers under the head – Bank Expenses. Some of the vouchers have been allegedly signed by the present applicant. The total amount of such debit vouchers comes to Rs.89,11,469/- (rupees eighty nine lakh eleven thousand four hundred and sixty nine).

8. It is further alleged that the applicant had granted loan without verifying the documents of the borrowers. It is also alleged that several loans were disbursed despite scrutinizing the repayment capacity. In most of the cases, the documents were given back to the members without closure of the loan account.

9. Shri Dharmadhikari, learned Senior Counsel submitted that the position of Chairman of the Board of Directors is that of a person who gives directions to the Bank in the implementation of the policies, which are decided by the majority of the Board of Directors and that the Chairman on his own accord is incapable of taking any individual decision. The Chairman has no role to play in the day to day affairs and management of the Bank. The routine functions are always done by the Branch Managers of the individual branches. All the documents have been seized by the EOW and there is no possibility of tampering with them, in any manner whatsoever.

10. He further submitted that one of the Directors by name Vijay Rambhau Babhare, whose case is similarly situated with that of the present applicant, has already been released on bail by this Court. It is further submitted that two properties of the present applicant worth Rs. 20,00,00,000/- (rupees twenty crore) and his bank account with IndusInd Bank having approximately Rs. 86,00,000/- (rupees eighty six lakh) have also been attached. The applicant is not a beneficiary of any of the aforesaid alleged transactions of loan distribution or debit vouchers.

11. Shri Ghodeswar, learned A.P.P. read out his reply affidavit in support of his submissions.

12. The Investigation Officer is also present before this Court and submitted that nine out of fifteen accused persons are on bail and some of the accused who are borrowers, are yet to be arrested.

13. I have considered the submissions advanced on behalf of both the sides.

14. At the outset, at this stage, a bare perusal of the documents in the chargesheet and the nature of allegations in the audit report would reveal that the allegations are mainly with regard to the functional irregularities in the banking transactions. The alleged transactions are of the year 2014 and the audit report is of 2018. The prosecution could not point out any pecuniary gain to the present applicant due to the above alleged irregularities.

15. Furthermore, as stated, the applicant's properties worth Rs.20,00,00,000/- (rupees twenty crore) (as per report of Government Valuer, which is a part of the charge-sheet) and his bank account having approximately Rs.86,00,000/- (rupees eighty six lakh), have also been attached. The applicant is in jail since more than one year. The investigation is completed and charge-sheet is also filed.

16. It is stated that the chargesheet runs into 35,000 pages and 80 witnesses are to be examined. There are lots of uncertainties with regard to the commencement and completion of trial. The witnesses and the documents are huge in numbers. The applicant cannot be kept behind the bar for an uncertain period, if lots of uncertainties are prevailing.

17. Also, the whole case is based on documentary evidence and the documents are already formed part of the chargesheet. The applicant, being an Ex-M.L.A., there is no likelihood that he would jump the bail.

18. Therefore, this Court is of the opinion that with stringent conditions, the applicant can be released on bail. Hence, the following order :-

ORDER.

i. The Criminal Application is allowed.

ii. The applicant be released on bail on his furnishing PR bond in the sum of Rs.2,00,000/- (rupees two lakh) with one solvent surety in the like amount.

iii. The applicant shall not pressurize or issue threats to the witnesses.

iv. The applicant shall not tamper with the prosecution evidence.

v. The applicant shall not leave the local jurisdiction without prior intimation to the concerned police station.

vi. The applicant shall deposit his passport, if any, with the concerned police station, forthwith.

vii. The applicant to attend the concerned police station once in a month i.e. on every first Thursday of the month between 12.00 noon to 2.00 pm.

19. The Criminal Application is disposed of accordingly.

20. The aforesaid observations is only for granting bail to the applicant and it shall not come in the way of the trial Court during trial.

JUDGE

Sumit