IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1526 OF 2021

Rahul Ashok Bansode ...Applicant

Versus

The State of Maharashtra ...Respondent

……
Mr. Kedar Patil for the Applicant.
Mr. A.A. Palkar, APP for the Respondent -State.
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CORAM : V.G.BISHT, J.
RESERVED ON : 15TH NOVEMBER, 2021
PRONOUNCED ON : 24TH NOVEMBER, , 2021

PC:-

1. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No. 362 of 2020 registered with Sangli City Police Station for offences punishable under Sections 420, 406, 408, 409, 468, 471 read with 34 of the Indian Penal Code (the IPC).

2. It is the case of prosecution that the applicant, at the relevant time, was Agriculture Officer of Canara Bank,

Branch Ram Mandir Chowk, Sangli. Accused Alok Victor Xess was his clerk. The said Bank used to sanction loan to the sugar farmers on the basis of guarantee furnished by Sadguru Shri Shri Sahakari Sakhar Karkhana Limited Rajewadi Aatpadi. Both of them were having responsibility of preparation of the papers pertaining to loan of farmers/ agriculturists and after due sanction of the loan, credit the said loan amount in the account of borrowers. It was also their responsibility to credit the amount deposited by borrowers in their respective loan account to the account of Sadguru Shri Shri Sahakari Sakhar Kharkhana.

The prosecution alleges that the said bank has granted loan to the farmers through the said sugar factory Sadguru Shri Shri Sahakari Sakhar Kharkhana. However, the applicant and other accused, namely, Alok Victor Xess transferred sanctioned loan amount to the farmers to their own account and that of their relatives and friends. It is further alleged that the applicant and other co-accused siphoned the amount to the tune of Rs. 1,90,00,000/-. After an enquiry initiated by the said Bank, its Chief Manager Mr. Gururaj Kulkarni found that in all there was misappropriation of Rs. 2,53,92,600/-. Accordingly, the First Information Report (FIR) came to be registered.

3. Mr. Patil, learned Counsel for the applicant, submits that during the period of audit, it was found that the applicant had siphoned off an amount of Rs. 34,27,150/-. However, during the period of enquiry, the applicant had suo moto deposited the amount of Rs. 17,00,000/- with the Bank out of the said total amount of Rs. 34,27,150/-. According to learned Counsel, other accused, namely, Vinayak Raju Ballari and Dhanaji Sahebrao Patil are released on bail. Investigation is over and the charge-sheet has been filed. Moreover, the applicant is not keeping well and has been advised angiography. For all these reasons, the application deserves to be allowed.

4. Mr. Palkar, learned APP, on the other hand, opposes

the submissions by submitting that a detailed affidavit of the investigating officer is filed on record in which it is clearly pointed out the modus operandi of applicant, who is the main accused. According to learned APP, in case of H & T and Basel Dose Loans, the loan proceeds are credited to SB account of borrowers but thereafter it was found that neither the proceeds were transferred to factory account nor utilized by the borrowers for the purpose of which the loan was disbursed. Instead, the loan amount credited to SB account of borrowers was transferred in part/ full to SB account of one or more customers and thereafter the amount was directly or indirectly misappropriated by the applicant by way of fund transfer through NEFT and also by way of digital modes like mobile banking, internet banking , phone pay, google pay etc.

5. Learned APP, then, next submits that for the aforesaid reasons, the Bank appointed Shri Gururaj Kulkarni, Chief Manager, Canara Bank as the investigating officer to

investigate embezzlement committed by the applicant at Canara Bank. After the enqiry, the said Shri Gururaj Kulkarni submitted his report and it was found that the applicant and his clerk, namely, Alok Victor Xess had taken help from some people and transferred the loan amount, which was granted to 10 account holders as well as Rs. 2,23,54,600/- from the account of Sadguru Shri Shri Sahakari Sakhar Karkhana Limited and also an amount of Rs. 30,38,000/- from the account of eight account holders and thus in total an amount of Rs. 2,53,92,600/- was transferred to their own account and that of their relatives and friends for their own benefits. Having regard to the magnitude of the misappropriation, the applicant does not deserve to be enlarged on bail, argued learned APP.

6. Perused investigation papers. I have also gone through the investigation report dated 25th September, 2020 prepared by Shri. Gururaj Kulkarni of Canara Bank. At the very outset, let me make it clear that the applicant in

his own words submits that an amount of Rs. 17 lacs has been deposited by him, albeit under protest. If the applicant had nothing to do with the alleged misappropriation, there was no reason for him to deposit any amount as is claimed by him. Secondly, it has been also pointed out from the record that accused Vinayak Ballari and Dhanaji Patil have been granted bail but their roles are altogether different and they are on different footing than the applicant herein. The applicant is prime accused inasmuch as he being an Agriculture Officer, was sole responsible officer to take care of the loan amount right from the disbursement to the recovery of the same from borrowers. It was also his duty to transfer the loan amounts which might have been paid to the Bank to Sadguru Shri Shri Sahakari Sakhar Karkhana Limited inasmuch as Sadguru Shri Shri Sahakari Sakhar Karkhana Limited had stood guarantor towards the loan transaction in between Canara Bank and the sugar farmers. Admittedly, this was not done.

7. This brings me to the investigation report of Shri. Gururaj Kulkarni, Chief Manager, Canara Bank, Laxmipuri Branch, Kolhapur. This is a very detailed and exhaustive report. There are investigation observations at serial No. 4 under the caption (Non-Advance / Credit Matters). Clause No. (a) deals with violation of the prevailing Rules, Regulations, Manual of instructions, systems and procedures. At serial Nos. 1 to 5, it is clarified that how the agriculture term loans were credited to SB account of the borrowers but later on the said loan amounts were credited to SB account of other customers thereby indicating that the end use of such loans was not ensured by the AEO i.e applicant and which is deviation from the existing guidelines of the Bank. Even the account holders of SB account were unaware of such huge transactions of their account thereby implying that a huge number of transactions were put through accounts of various customers without their knowledge, consent or authorization.

8. There is further observation that the loan proceeds were utilized by the applicant and his clerk Alok Victor Xess after routing the same through Vinayak Ballari, who is on bail and other customers. The end use of loans was not ensured but instead the loan proceeds were utilized in part/ full by the applicant and accused Alok Victor Xess in violation of bank guarantee and guidelines. Then the applicant's modus operandi while committing the fraud is given at clause (b)(v).

9. From the above, it is clear that the investigation report is not in any manner assailed by the applicant. Rather it shows that he had participated during audit investigation and as a consequence had offered to deposit Rs. 17 lacs, which he did by depositing the same.

10. Having regard to the colossal amount of misappropriation, in my opinion, this is not a case where

the applicant deserves to be enlarged on bail. As far as the medical grounds canvassed by learned Counsel for the applicant is concerned, same can be taken care of by the jail authority, if any eventuality arises.

11. For the aforesaid reasons, I am not inclined to grant bail. Hence, the following order :

ORDER

The Bail Application is rejected.

(V.G.BISHT, J.)

TRUPTI SADANAND BAMNE

Digitally signed by TRUPTI SADANAND BAMNE
Date: 2021.11.24 21:57:32 +0530