IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1378 OF 2020

Sagar Vijay Salvi .... Applicant
versus
State of Maharashtra .... Respondent

…….

- Mrs.Vrishali R. Raje, Advocate for Applicant.
- Ms.Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.474/2019 registered with Koparkhairne Police Station, Navi Mumbai, under sections 406, 409 r/w 34 of the Indian Penal Code. The Applicant was arrested on 06/01/2020 and since then he is in custody.

2. The prosecution case is that the Applicant and other accused Nos.1 to 4 were employed with M/s Securitytrans India Pvt. Ltd. That company was working as cash replenishment agent (CRA). The accused No.1, 4 and 3 were entrusted with the duty of depositing cash in various ATM machines. The

prosecution case is that in respect of route Nos.1, 2 and 3 were in the belt in Thane district. The present Applicant was concerned with depositing money on route No.1. For opening ATM machine, the accused were given 'Hood Key', 'Admin Key' and password. There are allegations that all the accused in collusion with each other misappropriated the cash, which was supposed to be deposited in the ATM machines of those routes. Misappropriation was to the tune of Rs.3,96,82,000/-. According to the prosecution case, the modus operandi was that the accused No.1 used to keep money with himself, which he was supposed to deposit in the ATM machines. He used to pay that amount to accused No.5 to invest in real estate business. He used to take monies from other accused Nos.2, 3 and 4, who were similarly entrusted with the duty of depositing money. He used to deposit cash in his ATM machine only during the period of conducting audit. Once the audit was conducted again that cash was removed and the cash was returned back to the other accused Nos.2, 3 and 4. The Applicant is shown as accused No.4. There are specific allegations that the charge-sheet contains statement of a witness who had seen the Applicant receiving Rs.37 lakhs from the main accused Sachin Shivaji Wagh. On this basis, FIR is lodged.

3. Heard Mrs.Vrishali R. Raje, learned counsel for the Applicant and Ms.Pallavi N. Dabholkar, learned APP for the State.

4. The FIR was lodged by security manager working with the said company. The FIR basically was against the accused No.1 Sachin Wagh. He was absent from his duty and there was some suspicion about his conduct. Therefore audit was conducted on route No.2 and 3 with which the said accused was concerned. The enquiry revealed that on 35 machines out of 37 on route No.2, audit was conducted and short fall of Rs.3,86,82,000/- was found. Obviously, Sachin Wagh was responsible for the same and the FIR was lodged. Investigation was carried out. The Applicant on the above allegations was arrested on 06/01/2020.

5. Learned counsel for the Applicant submitted that even as per the prosecution case there was no shortfall on route No.1

with which the Applicant was concerned. In the entire charge-sheet there is nothing to show that the Applicant had benefited monetarily in any manner. There is only one statement which incriminates the present Applicant and connects him with the allegations. That statement is of Sachin Ramesh Takhur, which is recorded on 30/12/2019. On the basis of that statement recorded on 30/12/2019, the Applicant was arrested on 06/01/2020. This shows that everything abut the investigating as far as the Applicant is concerned is doubtful and he is made a scapegoat. She submitted that there is nothing to show that the Applicant had acted in any manner as alleged by the prosecution.

6. Learned APP opposed this application. She submitted that modus operandi used by all the accused was as mentioned in the prosecution case. The main accused Sachin Wagh used to collect money from the Applicant and others and after the audit, he used to return the cash to the Applicant. She submitted that without help of the Applicant this offence could not have taken place. However, she could not point out from the charge-sheet

that the Applicant was a beneficiary in any manner and that anything was recovered from him. She submitted that the password and keys were given to the Applicant and others which they had misused to commit this fraud.

7. I have considered these submissions. Undoubtedly, there is sufficient overwhelming evidence against the main accused Sachin Wagh. Shortfall was found on his route. Admittedly, the shortfall of cash was not found on the route of present Applicant and allegations that the Applicant had given money for a certain period to the main accused Sachin Wagh is not actually supported by any witness by any other circumstance. The only reference to this is found in the statement of Sachin Thakur. It was recorded on 30/12/2019. He has stated that on 25/12/2019, at about 10.00 p.m., the present Applicant and Nilesh Parte met the main accused Sachin Wagh before this witness. Sachin Wagh gave Rs.27,00,000/- to the present Applicant and some amount was given to Nilesh. This was done on 25/12/2019. The FIR shows that by that time, the

misappropriation on route No.2 had already come to light and audit was conducted in respect of ATM machines at route No.2. therefore the company was on alert in respect of any such fraud. In spite of that it is difficult to believe that on 25/12/2019, the Applicant had accepted Rs.27 lakhs from Sachin Wagh and had deposited the same amount in the ATMs on his route. Moreover in the entire charge-sheet there is nothing to show that the Applicant had voluntarily accessed any of these machines during 25/12/2019 to 30/12/2019 to deposit Rs.27 lakhs. Therefore statement of Sachin Thakur does not help the prosecution case to that extent.

8. Apart from that as rightly submitted by the learned counsel for the Applicant in the entire charge-sheet there is nothing to show that the Applicant was a beneficiary in any manner because of this fraud. The allegations are that the misappropriated amount was more than Rs.3 Crores, then it would be impossible that the accused would not be beneficiary of this fraud. In this view of the matter, considering weak nature

of evidence against the Applicant and also taking into account the fact that he is in custody since 06/01/2020, the Applicant can be granted bail, because the charge-sheet is already filed and investigation is over. His further custody on this piece of evidence will not really serve any purpose. The Applicant does not have criminal antecedents. Therefore the Applicant deserves to be released on bail.

9. Hence, the following order :

ORDER

(i) In connection with C.R.No.474/2019 registered with Koparkhairne Police Station, Navi Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)