IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.996 OF 2020
WITH
INTERIM APPLICATION NO.206 OF 2021

Milind Ramesh Nikam .. Applicant
Versus
State of Maharashtra .. Respondent

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Mr.S.S. Patwardhan i/b. Mr.Bhooshan R. Mandlik, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent – State.

Mr.Mohan Rao, Advocate for Complainant.

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CORAM : PRAKASH D. NAIK, J.

DATED : JUNE 14, 2021.

P.C. :

The applicant is arrested on 16th December, 2019, in connection with C.R.No.509 of 2019, registered with Mulund Police Station, Mumbai, for the offence punishable under Sections 420, 409, 465, 468, 471 and 120-B of Indian Penal Code ("IPC", for short).

2 The case of the prosecution is that the applicant was employee of Municipal Cooperative Bank. The complainant is the branch manager of the said Bank. The applicant has allegedly

opened bogus bank accounts in the name of 10 persons. 119 Fixed Deposit accounts were opened. The interest received on the fixed deposit amount in the said accounts was transferred to the bank accounts of third parties. There is misappropriation of Rs.3,61,11,060/-. Investigation is completed. Charge–sheet is filed.

3 Learned advocate for the applicant contends that the applicant is in custody from 16th December, 2019. Further custody is not necessary. There are no criminal antecedents against the applicant. The bank accounts of the applicant and other accused were frozen. If the prosecution case is to be accepted, it cannot be said that the alleged acts could be performed by a single person. It is not possible to execute such transactions without the assistance of the branch manager. In the present case, the complaint is lodged by the branch manager. The amount was transferred to the accounts of other persons. Huge amount was allegedly transferred in the account of one builder. The amount is in custody of the investigating agency. Other persons were granted anticipatory bail.

4 Learned APP submitted that the applicant is involved in misappropriation of huge amount from the complainant bank.

Bogus accounts were opened by him. Amount was transferred to the accounts of other persons. There is recovery of Rs.92,00,000/-, from the account of one builder from whom the amount was transferred. The wife of the applicant has also acted in connivance of the applicant. The co-accused has been granted anticipatory bail considering the role attributed to them. The case of the applicant can be distinguished. He is the main accused. He is mastermind in the crime.

5 Learned counsel for the intervenor/complainant submitted that the applicant has played vital role. He was working as a clerk in the complainant bank. He is involved in misappropriation of huge amount. Padmakar Purushottam Gokarn to whom the amount was transferred by the applicant ought to be impleaded as accused. Complainant has made representation to the investigating agency to implead him as an accused. On impleading him as an accused, the applicant needs to be confronted with him. In the event bail is granted to the applicant, investigation would be hamper. Although, the charge–sheet is filed, police have right to carry out further investigation in accordance with Section 173(8) of Cr.P.C. The orders granting anticipatory bail are under challenge before this Court. Hence, the application for bail may be rejected.

6 On perusal of FIR and the other documents which forms part of charge–sheet, it is apparent that the applicant was working with complainant bank. It is alleged that bogus accounts were opened and the amounts were transferred to the accounts of other persons. The applicant is in custody from 16th December, 2019 i.e. almost for a period of about 17 months. Charge–sheet is filed against the applicant. Statement of Padmakar Purushottam Gokarn has been recorded on 21st December, 2019. At the moment he is the witness in this case. He has stated that an amount of Rs.1 crore is transferred into the account of his concern. Investigating agency has frozen the accounts. The applicant's wife has preferred an application for anticipatory bail, which is pending with interim protection. Sushil Kadu, Tulsidas Kadu and Shantaram Waghmare were granted anticipatory bail by the Sessions Court. Learned counsel for the complainant has contended that those orders are under challenge. On the ground that Padmakar Purushottam Gokarn would be impleaded as an accused in future course of time, and, the applicant needs to be confronted with him, cannot be a ground to refuse bail. Charge–sheet is filed against applicant. The applicant is in custody from the date of arrest. Considering the factual aspects, further

custody of the applicant is not necessary. Hence, bail can be granted to the applicant.

7 Hence, I pass the following order:

:: <u>O R D E R</u> ::

(i) Bail Application No.996 of 2020, is allowed;

(ii) Applicant is directed to be released on bail in connection with C.R.No.509 of 2019, registered with Mulund Police Station, Mumbai, on executing PR bond in the sum of Rs.50,000/-, with one or more sureties in the like amount;

(iii) Applicant shall report Mulund Police Station, Mumbai, once in a month on first Saturday between 11:00 a.m. to 01:00 p.m., or as and when called for by the investigating officer, till further order;

(iv) Applicant shall not tamper with the evidence;

(v) Applicant shall not leave India without prior permission of the trial Court;

(vi) Applicant shall deposit his passport before the trial Court. In the event, the applicant does not have the passport, he shall file such affidavit stating so, before trial Court;

(Vii) Bail Application No.996 of 2020, stands disposed of accordingly;

(viii) Interim Application No.206 of 2021, stands disposed of.

(**PRAKASH D. NAIK, J.)**