IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1457 OF 2019

Vyankatesh Ramchandra Asade ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Niranjan S. Mundargi for the Applicant.
Mr. S.V. Gavand, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 13th SEPTEMBER, 2021.

P.C.:-

At the outset, it may be mentioned that learned counsel for the Applicant had earlier sought time to seek instructions whether the Applicant would volunteer to deposit any amount before the Court. On instructions, he states that the Applicant is unable to deposit any such amount.

2. This is a second bail application filed by the aforesaid Applicant, who has been arrested in Crime No.213 of 2017 registered with Sadar Bazar Police Station, Solapur, for offences punishable under Sections 403, 409, 417, 420, 467, 468 and 471 r/w 34 of the IPC.

3. The previous bail application was withdrawn on 19/10/2018 after arguing the matter and when it was expressed that this would not be a fit case for grant of bail. Mr. Niranjan Mundargi, learned counsel for the Applicant states that the Applicant is in custody since 29/05/2017. He therefore states that considering the long period of detention as an under trial prisoner, the Applicant is entitled for bail.

4. Mr. Gavand, learned APP for the Respondent -State submits that the Applicant is involved in committing a serious offence. He further states that charge sheet has already been filed and the trial has not yet commenced and that the sanction in respect of accused Nos.12 and 13 is awaited for separating the trial.

5. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. The crime against the Applicant was registered pursuant to the FIR lodged by Rahul Katkar, Social Welfare Officer in the Social Welfare Department, Solapur. The first informant alleged that the Applicant was the Chairman of Pooja Magasvargiya Knitting and Garment Industrial Manufacturing Co-operative Society. The Applicant as the Chairman of the Society had filed a proposal for loan of Rs.2.9

crores. The co-accused Manisha Phule, Assistant Commissioner scrutinised the proposal and forwarded the same to the Social Welfare Department. The Social Welfare Department accepted the proposal and sanctioned loan of Rs.2.9 crore for the purpose of construction of a building, which was to be constructed within 52 weeks. Out of the sanctioned amount Rs.1,47,05,000/- were disbursed in favour of the society. At the request of the Applicant, the said amount was transferred in the joint account of the society in the Bank of Maharashtra, Solapur Branch. The said account was operated by the Applicant and 10 Directors of Social Welfare Department.

7. The records indicate that the Applicant had claimed that all the requisite formalities such as calling for tenders, sanctioning of building proposals, etc., were completed and sought disbursal of the amount of Rs.1.4 crores from the joint account. The Assistant Commissioner, Manisha Phule, recommended disbursal, subject to removal of certain objections. The records indicate that the Applicant has withdrawn the amount in cash from the joint account of the society without prior permission of Director, Social Welfare Department. The said amount has not been utilised for construction of the building and in fact, the construction work had not even commenced.

8. The material on record reveals that the Society was not the owner of the land wherein the building was proposed to be constructed. The Applicant had got the loan sanctioned by submitting forged and fabricated 7/12 extract of land under Gat No.170/1-B to 7B, which in fact is purchased and owned by Parvataiyya Alle from Ambubai Sarvade and other five. The Applicant had also fabricated the document to show that there was no charge/ dues in respect of the said property, when in fact there were dues for various amount of various authorities. The material on record also reveals that the Applicant upon submitting a certificate dated 12/03/2010 of Solapur District Central Co-op. Bank showing balance of Rs.4,88,960/-, on 13/03/2010, had withdrawn cash of Rs.4,87,000/- and only an amount of Rs.1,960/- was standing balance in the bank.

9. The material on record thus prima facie reveals that the Applicant got the loan sanctioned by submitting false, fabricated and forged documents and misappropriated an amount of Rs.1,47,05,000/-. Which was sanctioned for construction of the building under Social Welfare Scheme and has thus deprived the members of the backward class from the benefits of the scheme. The records prima facie suggest that the Applicant has taken assistance of some public servants arrayed as accused Nos.13 and 15 to execute this well designed plan to

misappropriate Government fund. The offence involving huge loss of public fund, needs to be viewed seriously.

10. The material on record prima facie proves involvement of the Applicant in the said crime. The offences are of serious nature. Considering the nature of the offence and severity of the punishment, the Applicant cannot be ordered to be released on bail as of right. The mere fact that the Applicant is in custody for three years i.e. since the date of the previous bail order, cannot be considered as change in circumstance to justify bail.

11. Hence, the bail application is dismissed.

12. Considering the fact that the Applicant is in custody since 2017, learned Trial Judge shall make an endeavour to conclude the trial as expeditiously as possible and in any event within a period of two years from the date of receipt of copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)