IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1620 OF 2020
WITH
INTERIM APPLICATION NO. 264 OF 2021

Dr.Trupti Suhas Bane ...Applicant

Versus

The State of Maharashtra ...Respondent

ALONG WITH
CRIMINAL BAIL APPLICATION NO. 778 OF 2021

Mukti Bavisi ...Applicant

Versus

The State of Maharashtra ...Respondent

ALONG WITH
CRIMINAL BAIL APPLICATION NO. 213 OF 2021

S. Rajneet Tara Singh Nandrajog ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Niteen Pradhan a/w. Adv. Rahul Gaikwad, Ritika Bharadia, Gauri Govilkar and Nikita Abhyankar i/b. Gravitas Legal Advocate for the Applicant in B.A. No.1620 of 2020.

Mr. Ashok P. Mundargi, Senior Advocate with Mr. Bhavesh Parmar, Rahul Gaikwad, Ritika Bharadia, Gauri Govilkar, Nikita Abhyankar i/b. Gravitas Legal for Applicant in B.A. No. 778 of 2021.

Mr. Shrinivas Bobade a/w. Mr. Wesley Menezes, Sushroot Desai, Waqar Nazir Pathan for the Applicant in B.A. No. 213 of 2021.

Mr. Aamir Malik and Mr. Dube Patil for Intervenor.

Mrs. P. P. Shinde, APP for the State.

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CORAM : PRAKASH D. NAIK, J.
ORDER RESERVED ON : 25th MARCH, 2021.
ORDER PRONOUNCED ON : 5th MAY, 2021.

PC :

1. The applicants have preferred these applications for bail under Section 439 of Cr.PC in connection with C.R. No. 375 of 2019 registered with Bhandup Police Station, Mumbai for the offences punishable under Sections 406, 409, 420, 465, 467, 471 r/w. 120(B) of Indian Penal Code, 1860 (IPC). The First Information Report (FIR) was registered on 30th September, 2019. The investigation was then transferred to E.O.W. Banking II vide C.R. No. 86 of 2019.

2. The brief facts of prosecution case are as under:

(a) The FIR was lodged by Jasbir Singh Matta, Manager of Recovery Cell, Punjab and Maharashtra Co-operative Bank Limited (PMC Bank) being authorised by the Administrator appointed by Reserve Bank of India (RBI).

(b) The PMC Bank is registered under the provisions of Maharashtra Co-operative Societies Act, 1960. The bank was granted license to carry on banking business by RBI in 1984. The bank received scheduled status in 2000 and became Multi-State Co-operative Bank in 2004. The conduct of banking business by the PMC Bank is subject to the provisions of Banking Regulation Act, 1949 and the directions/ guidelines issued by RBI.

(c) It was learnt from the records that, the Managing Director of the bank Mr.Joy Thomas and other functionaries including Board of Directors executives of the bank and promoter of HDIL have connived to commit illegal acts/offences. Some of the loans mainly belonging to HDIL group companies were intentionally given to cause wrongful gain to HDIL and its promoters, at the cost of wrongful loss to the bank and its depositors. The records were fabricated/falsified to conceal irregularities. Wrongful acts of the management/bank have resulted in risk of depositors losing their money.

(d) The bank in their regulatory reporting had understated the actual exposure of certain bad loan accounts/ which in the normal course should have been disclosed and classified as Non-performing Assets (NPA's) as per RBI norms. The bank was reporting to RBI as suppressed information of actual loans accounts with huge exposure and deliberately replaced them with fictitious accounts. The borrowers in this loan accounts and the functionaries of the bank, were suspected beneficiaries.

(e) In the advances master indent for the year ended 31st March, 2018 submitted to RBI, the bank had replaced 44 loan accounts during individual balance outstanding was higher with 21049 fictitious loan account, whose individual outstanding was comparatively lower.

(f) Preliminary assessment by interim RBI inspection conducted by RBI revealed that, 10 out of 44 borrowers accounts of HDIL group companies revealed that balance outstanding on 31st March, 2019 was Rs.4355.46 Crores and the balance outstanding as on 31st August, 2019 was Rs.4635.62 Crores. The actual financial position of the bank was camouflaged and the bank dis-actively shows its rosy pictures of its financial parameters, thus encouraging more depositors to open account with bank to their detriment and also the fabrication /falsification affected the depositor's interest adversely.

(g) The perpetrators of the fraud viz. Manager, other functionaries, Board of Directors of HDIL and PMC Bank connived with each other. In furtherance of criminal conspiracy facilitated huge lending to HDIL group companies and other entities which were concealed from RBI and depositors to dupe the regulators, depositors and others. The management and persons responsible for conduct of the business of the bank, are liable to be prosecuted for conspiracy, criminal breach of trust, cheating, forgery, falsification of records etc.

(h) In terms of provisions of Banking Regulation Act, 1949 every Chairman, Managing Director, Director, Auditor, Manager and any other employee of the bank were liable to be prosecuted for preparing incorrect documents with intent to cause damage to the interest of depositors.

(i) During the period from 2008 to 2019 the accused committed act of criminal conspiracy, cheating, criminal breach of trust, forgery and falsification of records. Mr. Joy Thomas, Managing Director of PMC Bank alongwith Waryam Singh and other Board of Directors of PMC Bank, other bank officials and Mr. Sarang Wadhwan, Rakesh Wadhwan, Kuldeep Singh Wadhwan and other person of HDIL, executives of Somerset Constructions Pvt. Ltd., Serveall Construction Pvt. Ltd., Sapphire Land Developer Pvt Ltd. Emeralds Realtors Pvt. Ltd. Awas Developers and Constructions Pvt. Ltd., Prithvi Realtors and Hoteld Pvt. Ltd and other executives affiliated bank and related person caused wrongful loss prima-facie to the tune of Rs.4355 Crores to PMC Bank.

(j) About 15 persons were arrested. The arrested accused includes Rakeshkumar Wadhwan, Sarang Wadhwan (Executives HDIL) Joy Thomas, MD, PMC Bank, Waryam Singh Chairman PMC Bank. Surjeetsingh Arora, Director of PMC Bank, Ketan Lakadawalla (Auditor PMC Bank) Jayesh Singhani, Auditor PMC Bank, Anita Kirdat, Auditor PMC Bank, Rajneet Singh, Director PMC Bank, Mukti Bavisi, Director PMC Bank, Dr. Trupti Suhas Bane, Director PMC Bank, Jasvindar Singh Banwait, Director of PMC Bank, Vishwanath Prabhu, Shripad Jere (Valuers of PMC Bank), Surjeet Singh Narang, Brij Bhushan Handa, Omprakash Utpal, Director of PMC Bank.

(k) Statement of witnesses were recorded. Charge-sheets were filed.

3. The applicants have preferred three separate applications for bail and urged various submissions in support of bail. Considering the fact that common issues are involved, in these applications, the same are heard and disposed of by common order. The submissions of learned advocates appearing for applicants are

reproduced separately.

Bail Application No. 1620 of 2020:

4. Learned Advocate Mr. Niteen Pradhan appearing for applicant Dr.Trupti Suhas Bane has advanced following submissions:

i. The applicant is an MBBS Doctor. She is serving as Senior Medical Officer at Bhabha Hospital run by Mumbai Municipal Corporation. She is a shareholder and deposit holder in PMC Bank. By virtue of being shareholder and a deposit holder, the applicant was requested to become a Director in the women reserved category by shareholders and accordingly, the applicant has been an elected Director as a women representative on the board. She is a member of loan committee since 2015. She was elected as an independent non-executive Director and hence not involved in the day to day affairs and operations of the PMC Bank. She was arrested on 3rd December, 2019.

ii. The Managing Director of the Bank Mr. Joy Thomas addressed a letter to RBI on 21st September, 2019. The said letter is confession of all sorts of concealment of fact that HDIL group accounts which constituted a substantial parts of the advances of the bank, had become NPA's. The RBI acted upon the said letter and took immediate measures. The Board of Directors of the bank was suspended and in its place an officer of RBI Mr.Jaybhagwan Bhoria was appointed as an Administrator.

iii. The FIR was primarily based on the letter dated 21st September, 2019. The allegations in the FIR, were exaggerated.

iv. The Board of Directors merely represents the shareholders. The Board of Director meet once in a month for macro level evaluation for the performance of the bank and for formulating and approving macro level policies. The Directors on the board of Directors comes from different walks of life, having their independent occupation and not involved in day to day affairs and operations of the bank. The affairs of the bank are conducted by professional management team headed by Managing Director, who is under service agreement with the bank. General Manager, Joint General Manager, Deputy General Manager, Assistant General Manager and other employees work under the instructions of the

Managing Director for conducting the affairs of the bank. The entire micro level management of the bank is handled by professional management team headed by Managing Director and other employees.

v. There are broadly four committees namely loan committee, recovery committee, Audit Committee and Executive Committee. Each committee comprises the Chairman and Managing Director and 2/3 Directors and 2/3 employees as members. The committee meet once a month or once in two months to evaluate aspects at macro level. Audit are undertaken in respect of the affairs and operation of the bank. The internal audit, statutory audit and audit by RBI. The bank has vigilance department to handle cases of fraud and corruption.

vi. Since the Board of Directors are not involved in day to day affairs and operations of the bank and since they do not have access to record, the knowledge of Directors about the affairs and operations of the bank, are restricted to inputs from the professional management team and the audit report. They have knowledge what is brought before them and do not have knowledge of what is brought before them.

vii. In PIL No. 791 of 2019, affidavit was filed by Reserve Bank of India before this Court, wherein the RBI had stated that HDIL loans were sanctioned by Managing Director of the bank and the same was concealed from the Board of Directors and all the committees, which had no reference in the Minutes of Meeting of the board or any committee. The search of the residence of the applicant was conducted on 18th October, 2019 by EOW and the applicant has co-operated with the search. On 27th December, 2019 EOW filed the charge-sheet against accused. Rakesh Kumar Wadhwan, Sarang Wadhwan, Mr. Joy thomas, Mr. Waryam Singh and Surjitsingh Arora. In the summary of charge-sheet, there is no whisper against the applicant or Board of Directors. Thereafter, supplementary charge-sheet was filed on 5th February, 2020. The accused were charged under Section 401, 406, 420, 465, 467, 468, 471, 477-A of IPC r/w. 120(B) of IPC and Section 46(1) and 47(A) of Banking Regulation Act. There is no iota of evidence and no specific allegation against the applicant. The specific role of the applicant has not been laid down in charge-sheet. The only allegations against the Board of

Directors is that the acts or omission or commission by the Board of Directors. However the EOW did not get specific evidence against the applicant to substantiate the act of omission or commission. Thereafter, charge-sheet was filed on 5th June, 2020 against the co-accused. There is no iota of evidence against the applicant.

viii. Ever since the applicant has been a Director on Board of Directors of the Bank and Member of Loan Committee, not a single loan proposal of HDIL and its associated companies was brought before her. No issues relating to recoveries as regards the HDIL and its associated companies accounts were brought before her. She is an independent non-executive Director. She is not involved in day to day affairs and operations of the bank. She is a Senior Medical Officer. The essence of the offence is concealment of information by falsification of records. By no stretch of imagination can it be said that the applicant was involved in said acts of falsification of records and concealment of information. It is merely a presumption.

ix. The allegations against the applicant is that, by virtue of being Director she is vicariously liable in the alleged fraud of the bank. Giving loan may be a regulation lacuna. The applicant did not receive any illegal gratification by sanctioning loan. The charge-sheet does not disclose any kickback / gratification received by the applicant as a Director of the bank. She was merely serving as an independent non-executive Director of the bank.

x. As per the master circular No UBD.CO.BPD.MC No. 8/12.05.2001/2012-2013 dated 2nd July, 2010 the Board of Director should not involve themselves in the routine or everyday business and managerial functions of the bank.

xi. As per circular on Board of Directors dated 2nd July, 2012, the Board should not interfere in the day to day functioning of the bank and should not involve themselves in the routine business and managerial functions.

xii. The applicant is in custody from 3rd December, 2019. The applicant is a lady. The investigation is completed and the charge-sheet is filed. The applicant is under incarceration for about 17 months. She is a permanent residence of Mumbai. There is no likelihood that the applicant would not be available for trial. Further detention of the applicant is not necessary. Learned counsel for the applicant tendered compilations of statements of witnesses and submitted that no specific overtact has been attributed to applicant being involved in the fraudulent transactions. It is submitted that statements of witnesses do not attribute any overtact to the applicant. The applicant is being incarcerated in custody, on the basis of inferences that, there were alleged fraudulent transaction. There is nothing on record to establish that the applicant was beneficiary of the loan sanctioned to the prime accused. There is nothing on record that the applicant had conspired with the co-accused. The document on record do not suggest any overtact to the applicant. Merely on inferences, the applicant need not be detained in custody. There is variation in the minutes of meeting of the board of director, as provided to the applicant by the bank and those relied upon by EOW.

xiii. The real conspirators are listed as witnesses in this case.

5. Learned APP submitted that the prosecution would reply

after the advocate appearing for the applicant in all the applications, conclude their submissions.

Bail Application No. 778 of 2021.

6. Learned Senior Advocate Mr. A. P. Mundargi appearing for the applicant Mukti Bavisi submitted as follows:

i. It is submitted that there is no specific allegation against the applicant. She is independent non-executive director of the bank. She was arrested on 3rd December, 2019.

ii. The Board of Directors represent shareholders. The affairs of the bank are conducted by professional management team headed by Managing Director.

iii. The applicant is non-practicing Chartered Accountant she was inducted as expert Director.

iv. The forensic auditor was appointed by PMC Bank to conduct audit of the bank. They furnished three interim report on 24th October, 2019, 11th November, 2019 and 25th November, 2019. They furnished summary of the interim report on 20th December, 2019. The final report was not submitted. There is no iota of evidence against the applicant in any of the interim reports, submitted by forensic auditor.

v. There is no specific allegations against the applicant. No specific role is attributed to the applicant in charge-sheet. The only allegations against the Board of Directors is that of act of omission or commission. The EOW do not have any specific evidence against the applicant to substantiate the act of omission and commission by the applicant.

vi. Investigation is completed. All the documents are recovered. Statements of witnesses are recorded.

vii. The applicant has been a Director and member of loan committee from 2011. Not a single loan proposal of HDIL group and its associated companies brought before her. No issues relating to recoveries as regards HDIL group and its associated companies accounts were brought before her.

viii. The applicant is not involved in day to day affairs and operations of the bank. The applicant is not involved in falsification of accounts. The applicant is being involved on the basis of the principle of vicarious liability without any cogent evidence in respect thereof.

ix. Advancing loan would not constitute any offences. There is no evidence that applicant has received any illegal gratification by sanctioning loan. The prosecution has failed to show specific role of the applicant as director in the alleged fraud.

x. The applicant is in custody for a period of about 17 months. She is a female. She is an independent non-executive director of the bank. She was not even aware of the loan advances made by the HDIL. There is nothing on record to warrant a prima-facie conclusion that she was connected with alleged act of falsification of records and concealment of the information regarding turning of HDIL group accounts into NPA's. The prosecution has no evidence to charge the applicant under 406, 409, 420, 465, 467 and 471 of IPC.

xi. Search panchanama was conducted in the house of the applicant on 18th October, 2019. Nothing incriminating was recovered from the applicant. Learned counsel for the applicant pointed out statements of witnesses and submitted that except vague allegations, there is no evidence to show involvement of the applicant in the crime. The directors were kept in dark. Those who were involved, were listed as witnesses. None of the witnesses state that applicant has participated in alleged acts. Reference was made to statement of Manbir Singh, Smt. Rupali Raut, Kamaljit Banwait, Smt. Manjit Kaur. The summary in the charge-sheet alleges willful omission or commission by the board of Directors. It is alleged that, during review of the Minutes of Board of Directors meetings, it is noted that, temporary adhoc overdraft limits were being sanctioned by executives of PMC Bank to customers. The said Adhoc sanctions were noted in multiple board meetings dated 10th December, 2004, 10th June, 2005, 13th March, 2006 and 8th December, 2007. The meetings were silent about executives who sanctioned these limits as well as customers who received the benefits on account of these overdrafts. There was lack of transparency in overdraft limits sanctioned by executives and BoD were aware of sanctions and failed to take appropriate actions. In 2007-2008, RBI had levied fine. The applicant was inducted as expert director in 2011-15 and 2015-2019. The charge is omission to take action.

xii. The question of absconding does not arise. The applicant is in custody for substantial period of time. The case involves huge documents and there are number of witnesses. Trial would not be concluded within short span of time.

Bail Application No. 213 of 2021:

7. Learned Advocate Sriniwas Bobade appearing for applicant Rajneet Singh submitted as under:

i. The applicant is arrested on 12th March, 2020. He is in custody for more than a year. Investigation is completed and charge-sheet is filed. Further detention of the applicant is not necessary. There is no evidence to show involvement of the applicant in offences. The prosecution case is based on inferences. The applicant is non-executive director of the PMC Bank. The bank's bylaws stipulate that its Board of Directors shall consist of 15 Directors. The Board of Directors are to be elected by the members of general body, out of which atleast two directors shall be women and one director from reserved category and two directors with suitable professional qualification. The term of Board of Director shall be 5 years. The applicant being a member of Sikh community and businessman was appointed as a co-opted Director in 1999 for a period of two years on the Board of Directors of PMC Bank vide clause 29(ii) of the bye-laws of the bank. He was elected to the Board of PMC Bank in 2001, 2006, 2011 and 2016. He was appointed in the recovery committee. The recovery committee comprised of Mr.Waryam Singh (Chairman) Mr. Joy Thomas (Managing Director) Mr. G. S. Hoti (Member) Ms.Kriti Bani (Member) and the applicant as member. Responsibilities and powers of Directors of PMC Bank are regulated by RBI Master Circular dated 2nd July, 2012. The applicant had no power and role in day to day affairs of managerial decisions or transactions of bank.

ii. The aforesaid RBI Circular elaborates the role of Directors which indicate that,

I. ***The directors shall not:***

a) Interference in the day to day functioning of the bank.

b) Involve themselves in the routine or everyday business and in the management functions.

c) Send instructions / directions to any individual officer/employee of the bank in any manner.

II. ***The directors should not***

a) *Sponsor any loan proposal, buildings and sites for bank's premises, enlistment or empanelment of contractors, architects, doctors, lawyers etc.*

b) *Approach or influence for sanction of any kind of facility.*

c) *Participate in the Board discussions, if a proposal in which they are directly or indirectly interested, comes up for discussions. They should disclose their interest, well in advance, to the Chief Executive Officer and the Board.*

d) *Sponsor any candidate for recruitment or promotion or interfere in the process of selection/ appointment or in transfers of staff.*

e) *Do anything which will interfere with and /or be subversive of maintenance of discipline, good conduct and integrity of the staff.*

f) *Involve themselves in any matter relating to personnel administration – whether it is appointment, transfer, posting or a promotion or a redessal of individual grievances of any employee.*

g) *Encourage the individual officer/ employee or unions approaching them in any matter.*

III**. *The Directors should not***

a) *reveal any information relating to any constituent of the bank to anyone as, he is under oath of secrecy and fidelity.*

b) *The directors are expected to ensure confidentiality of the bank's agenda papers/ notes. The board papers may ordinarily be returned to the bank after the meeting.*

c) *The directors should not directly call for* *papers/files/notes recorded by various departments for scrutiny etc. In respect of agenda items to be discussed in the meetings. All information/clarification that they may require for taking a decision should be made available by the executive.*

d) A director may indicate his directorship of the bank on his visiting card or letter head, but the logos of distinctive design of the bank should not be displayed on the visiting card/ letter head.

e) The directors should ensure that the bank's funds are utilized in a proper and judicious manner for the benefit of general members.

iii. The applicant has not visited any branches of the bank for any managerial role or otherwise. He attended board meeting 4 times a year.

iv. Voluminous charge-sheet filed by the officers of E.O.W. reveals that the major part of the conspiracy that is opening of fictitious bank accounts and creating fake documents for fictitious accounts was conspired and effectuated at various branches of PMC bank, under the instructions and surveillance of Managing Director Joy Thomas.

V. The statement of bank officials recorded by the investigating officer makes it clear that none of the statement prima-facie disclosed any case for commission for offences under Sections 406,409, 420, 465, 467, 471 r/w. 120(B) of IPC against the applicant.

Vi. The RBI master circular dated 2nd July, 2012 restricts the power of the applicant as a director and leaving him no option but to trust the bank management to supply the Board of Directors with full and truthful picture of the bank business. The applicant could not control what documents of PMC and Chairperson of the banks would show him, nor the advice of the applicant is binding on them.

Vii. The bylaws of prescribed procedure for conduct of meeting of Board of Directors meeting were presided by chairperson and vice chairperson. The applicant never had position of chairperson and vice chairperson of the board. The applicant had not played any role, nor he had any powers to direct or supervise the manner of sanctioning of loans and business development, opening of account. The applicant was proceeding on the basis of limited information presented to him. Most of documentation relating to creatting fraudulent accounts involved in extending loan to HDIL and its group companies were created at different branches of PMC Bank. The applicant had no access to these branches and no power to call for records. All document pertaining to sanction of loans to HDIL as well as fraudulent filings made by bank to RBI to conceal loans were created by officials of bank who were conducting the affairs of the bank under instructions of managing director and chairperson.

Viii. The applicant was a member of loan recovery committee which could execute its functions only once, a loan was declared as NPA. The account of HDIL and its group companies were never declared as NPA by Managing Director, Chairperson, Deputy General Manager and personnel involved in day to day working of the bank, till the scam was actually brought to light. The issues regarding HDIL borrowings were never tabled before loan recovery committee. The complainant Jasbirsingh Matta was the loan recovery manager in PMC Bank. He did not raise any internal complaint informing Board of Directors about anomalies in HDIL's borrowings. The applicant as Director, had no access to core banking solution system used by PMC Bank.

ix. Reading the charge-sheet and statements of individuals who have been named as witnesses, it is ex-facie apparent that none of the witnesses have either directly or indirectly named the applicant or even narrated any sort of role that the applicant might have played in giving fraudulent loans to HDIL.

X. Learned advocate adverted to statement of witness Jasbirsingh Matta, Manbeer Singh, Kamaljeet Kaur Banwait, Suraj Dalvi, Sunil Karpe, Rupali Raut, Siddhi Padwe, Mangesh Sawant, Santosh Gurav, Kunal Oberoi, Yogesh Kokate, Subhash Gholap and Satnam Matta. Sanjay Kumar, Anand Pushparaj, Rajesh R. N. Sandip Kachare, Anita

Utpal and other witnesses. It is submitted that, reading the statement of these witnesses, it is apparent that there are no allegations or even whisper made against the applicant. There is no allegation that the applicant as a member of the board, played any role in facilitating loan to HDIL and its group companies or that he was involved in preparing any fraudulent documentation. The statements would indicate that the applicant was not even aware that the loans were fraudulently extended to HDIL. The applicant had no access the document prepared and submitted to Board of Directors by Waryam Singh and Joy Thomas, who were involved in issuing fraudulent loan to HDIL.

Xi. The supplementary charge-sheet dated 6th February, 2020 refers to name of the applicant as accused No. 9. None of the witnesses have directly or indirectly named the applicant or narrated any sort of role to the applicant, being participant in fraudulent transactions with HDIL.

Xii. The statements of various witnesses do not establish prima-facie case for commission of offence under Section 406, 409, 420, 465, 467, 471 r/w. 120(B) of the IPC against the applicant. All instructions of effectuate the fraudulent transactions were given by chairperson and Managing Director to managerial personnel of PMC Bank.

Xiii. Mr.Joy Thomas has addressed a letter dated 21st September, 2019 which indicate that the concealment of information from board, auditors and regulators due to fear of reputational loss. The investigating agency did not find single instance of meeting or communication between the applicant and HDIL group. The bank dealings with HDIL and Chairperson, Managing Director to the exclusion of Board of Directors. The applicant has not personally benefited in any transaction. The actual role of the applicant, was at the most advisory and helping his community. He has not obtained any loan from the bank. He did not receive salary from the bank.

Xiv. Learned advocate for the applicant placed on record compilation of list of documents, such as bylaws of PMC, master circular of RBI letter dated 21st September, 2019 and statement of prosecution witnesses.

Xv. Learned counsel for the applicant has relied upon several decisions viz:

a. ***Prabhakar Tiwari v/s. State of Uttar Pradesh, 2011 SCC 648.***

b. ***P. Chidambaram v/s. Directorate of Enforcement delivered in Appeal No. 1831 of 2019.***

c. ***P. Chidambaram v/s. CBI, 2019 SCC Online SC 1380.***

d. ***Sanjay Chandra v/s. CBI 2012 (i) SCC 40.***

e. ***Husainara Khatoon v/s. State of Bihar, AIR 1979 SC 1369.***

f. ***Babu Singh and others v/s. State of Uttar Pradesh, 1978 (1) SCC 579.***

g. ***Motiram and others v/s. State of Madhya Pradesh, 1978 (4) SCC 47.***

h. ***Navendu Babbat v/s. State of NCT of Delhi, decided by Delhi High Court dated 18th June, 2020.***

i. ***Dr. Shivender Mohan Singh v/s. Directorate of Enforcement, 2020 SCC online DEL 766.***

j. ***Anil Saxena v/s. State of NCT of Delhi delivered by Delhi High Court dated 17th June, 2020.***

8. Learned APP Mrs. Prajakta Shinde opposed the applications for bail on several grounds. She relied upon the compilation of statements of witnesses written submissions, and affidavit in reply filed by Investigating Officer. It is submitted on 30th September, 2019 an application came to be submitted by Jasbirsingh Matta, Manager, Recovery Cell of PMC Bank against Mr. Joy Thomas, Managing Director of the PMC Bank and other officials of PMC Bank, Directors of HDIL and its group companies, causing huge loss to the bank and hence C.R. No. 375 of 2019 was registered with Bhandup Police Station, Mumbai. The investigation was

transferred to EOW. And CR No. 86 of 2019 was registered. First charge-sheet vide CC No. 882/PW/19 was filed on 27^{th} December, 2019 against accused No. 1 Rakesh Wadhwan, Accused No. 2 Sarang Wadhwan, Accused No. 3 Joy Thomas, Accused No. 4 Waryam Singh and Accused No. 5 Surjeet Arora. Second charge-sheet vide CC No. 106/PW/20 dated 5^{th} February, 2020 was filed against the accused No. 6 Ketan Lakadwala, Accused No. 7 Jayesh Sanghani, Accused No. 8 Anita Kirdat, Accused No. 9 Rajneet Singh, Accused No. 10 Jagdish Mukhi, Accused No. 11 Mukti Bavisi and Accused No. 12 Dr. Trupti Bane. Third Charge-sheet vide CC NO. 296/PW/2020 dated 5^{th} June, 2020 was filed against the accused No. 13 Jasvindarsingh Banwait, accused No.14 Vishwanath Prabhu, accused No.15 Shripad Jere, accused No.16 Balbirsingh Kochar, accused No.17 Surjitsingh Narang, accused No.18 Brijbhushan Handa and accused No.19 Omprakash Uppal.

9. It is further submitted that the applicant in B.A. No. 1620 of 2020 Dr. Trupti Bane is one of the Director of the board of PMC Bank since 2005. She is a member of recovery committee for a period 2010 to 2015 and 2015 to 2020. She was on the board of loans and advance committee of PMC Bank and her service in both the committees are enough to describe her experience in recovery of loans and sanctioning of loans in PMC Bank, where HDIL group

companies have always remained common factor in both the committees. During her tenure in recovery committee, most of the loan facilities of HDIL group companies were overdue or overdrawn and during her tenure in loans and advances department, most of the overdue or overdrawn facilities of HDIL group companies were replenished with new funding. It is the willful omission on the part of applicant with other accused to act diligently in respect of fraudulent loan account of HDIL group companies and others in PMC Bank during the period of alleged offence.

10. The applicant in B.A. No. 778 of 2021 Smt. Mukti Bavisi is the Director on the board of PMC Bank and member of loans and advances committee of PMC Bank from 2011 to 2015 and 2015 to 2020. The fraud is the outcome of irregularities in the loan account of HDIL group companies and loan committee of PMC Bank has always remained the gateway for account of HDIL group companies. During investigation it was revealed, that inspite of overdrawn, most of the loan facilities of HDIL fresh loan facilities were advanced to HDIL. The members of loans and advances committee have never kept the track of loan facilities of HDIL group companies and their loan account were given more funding during the period of alleged offences.

11. The applicant in B.A. No. 213 of 2021 Mr. Rajneet Singh

is long serving Director and the Member of recovery committee in PMC Bank from 1999 to 2019. Several loan facilities of HDIL group companies were availed during period of alleged offence and most of these facilitires have remained unpaid. The applicant and the other members of the recovery committee never made efforts to recover the long pending dues. It is deliberate inaction on the part of recovery committee, that unrecovered loan facilities of HDIL group companies remained under cover and moreover, functionaries of PMC Bank have sanctioned additional facilities to loan accounts with heavy outstanding to convert their heavy dues into part of loan facilities.

12. It is submitted that various discrepancies were noticed by forensic auditor in their interim report, which is as follows:

i. Minutes of multiple board meetings are not available.

ii. Pages from minute books are missing.

iii. Pages were manually added in the minute books and was not serially numbered.

iv. Notices issued to the Board of Director were unsigned.

v. Directors present in the meeting as per the minutes, were shown absent in the attendance register and vice-versa.

vi. There was discrepancies between details mentioned on sanctioned letter of HDIL and minutes.

13. Learned APP further submitted that inspection conducted by RBI on 31st March, 2018 noted financial irregularities / negligence/ lack of diligence on the part of the Board of Directors. There were deficiencies in the functioning of Board of Directors During the investigation, complicity of Board of Directors was examined. Statement of concerned officers of PMC Bank were examined and the findings corroborate with forensic audit report. Loan availed by the associated companies of HDIL with overdraft facilities, were intentionally overlooked by Directors of the board. Their omission caused loss to the bank. There were falsification of accounts, forgery in electronic records. During the investigation, it was revealed that there were lack of due diligence in functioning of the directors of the board and various acts of commission and omission being committed by them. The Board of Directors were elected by shareholders and appointed by committees for functioning of portfolios of bank. They have not functioned as per the bylaws of PMC Bank and RBI guidelines and did not adhere to principle of Do's and Don'ts and master circular of Board of Director dated 1st July, 2010 and 2nd July, 2012.

14. The prosecution relied upon the following Judgments:

i. ***Y. S. Jaganmohan Reddy 2013 7 SCC 439.***

ii. ***Serious Fraud Investigation v/s. Nitish Johari, 2019 9 SCC 165.***

15. Learned APP has relied upon the statement of some of the witnesses recorded under Section 164 of Cr.PC. Learned APP also relied upon the statement of various witnesses recorded under Section 161 of Cr.PC more particularly statement of Jasbir Singh Matta, Manjeet Kaur, Rijesh R. N. Kamlajeet Banwait, Sameer Paranjape. Reliance is also placed on statement of Kamaljeet Banwait, Manbeer Singh, Jaspal Singh recorded under Section 164 of Cr.PC. Reliance is also placed on the bylaws of the bank, extract of forensic audit report, RBI circular dated 2nd July, 2012.

16. The investigating officer had filed an affidavit in reply and opposing the grant of bail. The affidavit indicate that the PMC Bank holds large funds of depositors. The offence is serious. Magnitude of the amount involved is huge. Some of the accused are absconding. The nexus between the HDIL and some of the accused is made out. Possibility of pressurizing the prosecution witnesses, cannot be ruled out. Investigation is still in progress under Section 173(8) of Cr.PC. Forensic audit is in process.

17. Learned counsel for the intervener opposed the application for bail. He reiterated the submissions of learned APP. It is submitted that all the applicants have played vital role in causing

loss to the bank. The offences are of serious. Huge amount is involved. There is no classification as a non-executive director. The witnesses have attributed role to the applicants. Their acts and omission have caused loss to the bank. Forensic audit is in progress. PMC Bank is multi state co-operative bank. Gravity of the offence has to be considered. Loss is caused to the depositors of the bank. The accused is likely to tamper with the evidence.

18. The applicant in B.A. No. 1620 of 2020 had preferred an application for bail before the Court of learned Magistrate. The said application was rejected by Order dated 30th December, 2019. The applicant preferred an application for bail before the Sessions Court. The said application was rejected on 2nd May, 2020.

19. The applicant in B. A. No. 778 of 2021 had preferred an application for bail before the learned Metropolitan Magistrate. The said application was rejected by Order dated 30th September, 2019. The said applicant preferred an application for bail before the Sessions Court, which was rejected by Order dated 2nd May, 2020.

20. The applicant in B.A. No. 213 of 2021 had preferred an application for bail before the Court of Sessions Court, which was rejected by Order dated 2nd May, 2020.

21. The applicants in these applications were directors of

PMC Bank. Applicant Dr. Trupti Bane and Mukti Bavisi were arrested on 3rd December, 2019 and the applicant Rajneet Singh was arrested on 16th November, 2019. During the course of investigation, it was revealed that accused Rakesh Wadhwan, Sarang Wadhwan, Joy Thomas and Waryam Singh and Surjitsingh Arora had conspired to commit fraud and they were assisted by other accused. The accused committed acts of forgery, falsification of account, misrepresentation, suppression of facts, criminal breach of trust etc. In the summary of the charge-sheet, it is stated that Forensic audit was conducted. Various anomalies were revealed in the functioning of statutory auditors. There were willfully omission or commission by Board of Directors. The minutes of the meeting indicate that temporary overdraft limit were sanctioned by executives of PMC bank to customers.

22. The Managing Director of the bank Mr.Joy Thomas forwarded a letter to RBI on 21st September, 2019. The gist of the said letter addressed to RBI, mentioned that PMC Bank had commenced its operation in February, 1984. Board was reconstituted in 1986. Apprehending closure of bank, the companies of Diwan family came to the rescue of bank. They infused capital and helped the bank to bring networth of the bank. In 1986 to 1987 they infused capital of Rs.13 Lakhs and huge deposits for revival of the bank.

They started banking with the PMC bank as depositor. Loan and advances relation started in 1990. The advances were mostly in the form of overdrawals. The Directors of HDIL started banking with the PMC Bank. The said company was dealing with the purchase of land and developing them. Their accounts used to get overdrawn. The Wadhwan group's exposure was around Rs.500 Crores. The funding of HDIL became huge. The HDIL expanded their operations. The bank continued to earn high interest from the funding of the HDIL group. The HDIL groups started facing liquidity crunch and defaulted with dues of bank. The loans were huge and if they were classified as NPA, it would have affected the profitability of the bank and the bank would have faced regulatory action from RBI. This could have reputational risk for a bank. The bank continued to report all the HDIL accounts as standard accounts. Though accounts of HDIL were not performing well, it was not brought to the notice of the board. The subsequent overdue of various loans were also not reported to the board of directors, Auditors or RBI. The subsequent overdues of various loans were also not reported. They were running many projects and were in the business of taking over the companies and open separate accounts for different project. The concealment of information from board, auditors, and regulators was due to fear of reputational loss. The volume in the accounts were huge as the major business of the company, were to acquire small pieces of land from the farmers and then developing the land and creating infrastructure after getting necessary approvals from the authorities. Till 2019, some of the accounts were reported and shown, but many legacy accounts were not reported to the board. Since the Bank was growing to the statutory auditors, due to their time constraints were taking only the incremental advances and not entire operations in all the accounts. They validated the incremental loans and advances and scrutinize the accounts, which were shown by them. In the RBI inspection prior to 2015 officers, used to check mostly top few borrowers accounts reported by the bank branch wise,therefore, these accounts did not come into picture and it was around 2017 on wards when the RBI started asking for indent for advances master. The stressed legacy accounts belonging to this group were replaced with dummy accounts to match the outstanding balances in the balance sheet. The exposure of HDIL group was Rs.1026 Crores. If they had classified them as NPA, they were required to stop charging interest on these accounts, which could have resulted in losses. HDIL group promised to clear the dues and gave adequate security. The letter also indicated the roadmap plan for the action implementation. The letter further state that every year during the course of RBI inspection, the bank used to be under stress due to concealment of information from RBI. The six staff members were fully aware of the situation and they decided to the bring it to the notices to the higher authority in RBI. All the decisions for granting of overdrawls to accounts, was as per his instructions. The executives has no role in allowing overdrawals and they were doing it as per his instructions, as they had faith in him and as part of system.

23. The FIR was registered on 30th September, 2019 on the basis of letter dated 30th September, 2019 forwarded by the complainant to the crime branch. The complainant Jasbirsingh Matta was the Manager (Recovery Cell of PMC Bank, Bhandup West). In the FIR, it was alleged that actual financial position of the bank was camouflaged by giving rosy picture about financial status and encouraging depositors to open account with the bank. The management and persons are responsible for the conduct of the bank are liable to the criminal breach of trust, cheating, forgery etc. In pursuant to that the investigation was transferred to EOW, Crime Branch.

24. The contentions of the applicants is that the affairs of the bank are conducted by professional management team headed by Managing Director. There is no evidence to show that the applicants are part of conspiracy to cause wrongful loss to PMC Bank and wrongful gain to them.

25. I have perused the statements of witnesses recorded during the investigation. Mr.Manbeer Singh was working with PMC Bank as Chief Manager. In statement dated 23rd November, 2019 he stated that Manjeet Kaur was a Joint General Manager. She was taking instructions from Joy Thomas, Managing Director of PMC Bank. Manjeet Kaur had told him and others to prepare/renew documents of entities of HDIL. When he asked for relevant files to check if loan account are processed as per RBI guidelines, the same were not provided by Manjeet Kaur and she insisted them to prepare the documents without referring to those files. He further stated that credit proposal of HDIL and its entities were sanctioned violating all rules and regulations of PMC Bank and RBI guidelines by Manjeet Kaur on instructions of Mr. Joy Thomas with common intention to facilitate M/s.HDIL, Mr. Rakesh Wadhwan and Mr. Sarang Wadhwan to cause wrongful gain to them. Anita Kirdatt was told by Manjeet Kaur to prepare desirable financial statement, which would conceal vital borrowals unshown accounts. These witness also referred to RBI Circular dated 2nd July, 2012 about Do’s and Don’ts by Directors and Board of Directors. It is further stated that, if the Board of Directors had followed the circular and shown due diligence, the bank could have been saved. Further statement of this witness was recorded on 25th November, 2019. In the said statement, it was stated that Mr.

Waryam Singh, Mr. Joy Thomas, Manjeet Kaur were aware about default account of Ravi Development Pvt. Ltd. And Guru Ashish Constructions Pvt. Ltd. Both subsidiaries of HDIL has not attributed any overtact to the applicants. The statement Suraj Dalvi was recorded on 27th November, 2019. He was working as Manager with PMC Bank. He stated that as per the instructions of Joy Thomas, Smt. Manjeet Kaur during 2013 to 2019 he alongwith Sunil Karpe, Mr. Subhash Gholap paid cash to Mr. Rakesh Wadhwan. Director of HDIL, Mr. Waryam Singh and Mr. Joy Thomas cash was paid from the centralised cash vault of the bank. They were instructed not to make any formal entry in the records of the vault. Separate book was used to maintain date wise records of cash paid to those persons on instructions of Mr. Joy Thomas and Manjeet Kaur. During 2013 to 2015 cash paid to HDIL for projects majestic Tower and whispering tower was returned as stated by him. No role has been attributed to applicants in these violations. Statement of Sunil Karpe was recorded on 27th November, 2019. He was Sr. Manager in account department. He referred to fraudulent cash payment made to HDIL and its associates. Statement of Smt. Rupali Ashish Raut were recorded on 20th October, 2019, 25th November, 2019 and 11th December, 2019. She stated that she was working with PMC Bank. She has referred to the role of Manjeet Kaur and other persons from the bank. Data was prepared by Audit Department for submitting it to RBI. Thereafter, this work was assigned to credit department. Head of credit department were Manjeet Kaur, Aarti Desai and Karmen Rebello. She stated that access of code was given to account of HDIL group companies. As per the instructions of Manjeet Kaur and others, the amount outstanding of HDIL was not shown to RBI and that was distributed randomly in fictitious accounts. She furnished the details of account of HDIL and outstanding amount. In credit department of PMC Bank there was practice of inclusion of loan proposals which were not actually placed before loan committee and Board of Directors meeting. As per the instructions of Smt. Aarti Desai and Manjeet Kaur, she had compiled the list of minutes of loan proposals alongwith xerox copies of loan process notes for records which she used to receive from several officials of credit department through email or by sharing files in staging area. Soime of the proposals were never discussed in any meeting yet the same were shown as placed and discussed in a loan committee/board meeting. Some of the loan committee meetings shown as held, had never been held actually and only records were prepared to show it as conducted. Smt.Siddhi Padave in her statements stated that there was practice of converting overdraft accounts of HDIL into current accounts for concealing their credit exposure during RBI inspection. She was instructed to check the entries of charging interest etc. I have also perused statement of Kushaldeep Chahal, Santosh Gurav, Kunal Oberoi, Yogesh Kokate, Deepak Gawade, Subhash Gholap. All these witnesses has referred to the working of PMC Bank, handling of accounts of HDIL group companies, acts of concealment on the instructions of Senior Officers of the Bank, suppression of facts from RBI etc. Smt.Ranjana Bisen was working as Chief Manager with PMC Bank. Her statements were recorded on 30th November, 2019, 12th December, 2019 and 14th December, 2019. Her statement reveals how PMC officials Ms. Karmen Rebello, Ms. Manjeet Kaur, Mr. Joy Thomas and Mr. Waryam Singh with Mr. Rakesh Wadhwan entities privilege Airway Pvt. Ltd. And privilege Industrial fabricated documents. Statements of Anita Rupesh Koli were recorded on 30th November, 2019 on 12th December, 2019 and 17th December, 2019 also refers to the procedure followed sanctioning and disbursement of loan. She stated that the bank officers Karmen Rebello, Manjeet Kaur, Joy Thomas, Waryam Singh were responsible for preparing false documents acting in connivance with borrower company owned by Rakeshkumar Wadhwan and Sarang Wadhwan without taking appropriate security for loan and that during 7th June, 2011 to 7th February, 2013 facility of Rs.50 Crores was given to them. Statement of Kamaljeet Kaur Banwait was recorded on 22nd

November, 2019 23rd November, 2019 and 25th November, 2019. She was working in MD secretariat Department headed by Mr. Joy Thomas. She has stated that the bank had central loan processing cell at Bhandup, which was headed by P. N. Karanth who was reporting to Mr. Joy Thomas. She also stated that Karmen Rebello, Deputy General Manger, Aarti Desai, Deputy General Manager were working in Credit Department and reporting to Manjeet Kaur. She also stated that loan proposals sanctioned under the power of Managing Director, above his delegation were placed before loan committee and Board of Directors for ratification. The regular loans were placed before the committee. The loan proposal of HDIL were also placed before the Board of Directors. The proposals were sanctioned by Board of Directors of PMC Bank inspite of discrepancies. She referred to circular dated 2nd July, 2012. Prior to 2017, PMC Bank has not secured mortgage properties from H?DIL. In May, 2017, Sarang Wadhwan and Rakesh Wadhwan approached Mr.Joy Thomas for financing their project. Sarang Wadhwan and Rakesh Wadhwan, Waryam Singh used to meet Mr. Thomas and have discussion. Statement of this witness was also recorded under Section 164 Cr.PC. On 26th December, 2019. She stated that in 2008, loans were brought under the central office purview. Ms. Karmen was transferred to central office. The proposals received for fresh credit, renewals, additional requirements etc. were discussed by senior officers with Ms. Manjeet Kaur and Mr. Joy Thomas and that it was decided whether to be placed before committee. The committee formed of the members, chairman and managing director as the ex-officio and department heads of credit and investment with Joint General Manager and Manager and Dy. Managers. She referred to discrepancies in minutes of Board meeting. Anita Kirdatt was assigned to audit. She was providing assistance to Mr.Manbeer Singh and Manjeet Kaur. No specific overtact has been attributed to the applicants. Mr. Rijesh R. N. in the statement dated 21st November, 2019 have stated that the bank had not disclosed restructured account. The performance of Board of Director were not considered as satisfactory, as the Chairman had not ensured adherence to RBI Do's and Don'ts prescribed for the Board of Directors. The Audit committee did not review the implementation of the guidelines and did not submit the note to the board at quarterly intervals.

26. Statement of Manjeet Kaur was recorded on 12th February, 2020. She was Jt. General Manager. This witness has referred to the procedure to process loan proposal in PMC Bank. According to her, she recommend the loan of HDIL group companies which came to her on the instructions of Joy Thomas then Managing Director of PMC Bank, Mr.Waryam Singh the Chairman of PMC Bank

was also aware of all the loan sanctioned to HDIL group. Mr. Waryam Singh and Joy Thomas used to monitor particularly the loan sanctioned to HDIL group personally and in this connection, they used to have frequent meeting with Rakeshkumar Wadhwan and Sarang Wadhwan. She had objected on several occasions at the time of recommending new sanctions to Joy Thomas. She has blamed Mr.Joy Thomas and Mr.Waryam Singh. She has not attributed any overtact to applicants in the alleged fraudulent transactions.

27. Statement of Raju Sinha dated 13th November, 2019, referred to procedure followed for sanctioning loans and role of Board of Directors. Statement of Manbeer Singh was recorded on 26th December, 2019 under Section 164 of Cr.PC. He stated that, Manjeet Kaur used to call him for reporting to central office to check discrepancies in mortgage deeds of HDIL and its entities. She was taking instructions from Joy Thomas. The relevant files were not shown to him by Manjeet Kaur. Legal documents of properties and property valuation was not provided. He referred to RBI circulars. It was not implemented. Bank could have been saved if diligence was shown by Directors. Specific role has been attributed to officers of Bank referred to therein. Except alleging that circular of RBI was not followed, there is no specific allegation about involvement of applicants. Statement of Samir Paranjape was recorded on 14th

December, 2019. He is partner in Grant Thorton India. They conducted Forensic Audit. They prepared interim report. They noted irregularities in advances, inadequate collateral, lapses in documentation, end use of loan, purchase of fixed assets, summary of financial transactions, relatives of Board of Directors, Minutes of Board Meeting, resolutions, lapses in internal control etc. The summary of transactions with relatives of Board of Directors, refers to amount of Rs.36,065/- paid to Hitesh Shah, allgedly brother in law of applicant Mukti Bavisi. The said applicant has submitted that, Hitesh Shah referred to in the said entry is not the brother in-law of applicant. The brother in law of applicant Mukti Bavisi has filed affidavit stating that he is not the Hitesh Shah mentioned in the report and there is mistake of identity. He never had any account with Union Bank of India. The interim Forensic Audit report contains a note that, they have not received the KYC and can confirm if the payments are actually made to relatives of directors. He did not receive amount from HDIL or its affiliates i.e. Sunshine Communications Pvt. Ltd. There is no evdidence that applicants had applied for loan for themselves or to any of their close relatives.

28. On perusal of the statements and the voluminous charge-sheet indicate that the major part of conspiracy about opening of fictitious account, creating false document for fictitious

account was conspired effectuated under the instructions of the co-accused. The statements do not attribute specific overtact to the applicants. The bank's bylaws prescribe procedure for conduct of the meetings of the Board of Directors. Specific role of the applicant has not been enumerated in the charge-sheet. The primary allegation is that, there were omission and commission, which resulted in loss to the bank. However, there is no evidence against the applicants to substantiate acts of omission or commission. Investigation is completed. Charge-sheet is filed. There is no evidence to show that the applicants were a part of any conspiracy with prime accused in causing loss to the PMC Bank. In fact the first charge-sheet proceeded on the basis that the co-accused were arrested. They had conspired with each other, while disbursing loans to the prime accused and did not take steps to recover the same. There is nothing on record to show that the applicants at any point of time had met accused No. 1 to 2 or there were any meetings with the Directors of HDIL group. There is no evidence that the applicants have received any kickback/ gratification as Board of Directors of the bank. There is no evidence that the applicants have misused their position as Director of the bank in sanctioning loan to themselves or to their relatives or any other person known to them. The applicants are in custody for more than a year. Further custody of the applicants is not necessary. There are several statements of witnesses recorded during the investigation. The case relates to voluminous documents. The statements of witnesses indicate that some of them are accomplices the affairs of the bank are conducted by them. They were acting on the instructions of senior officers of Bank. Primarily the applicants are charged for non-diligence or omissions. There is no cogent evidence, prima-facie for conspiracy against applicants. There is no evidence that applicants were involved in fabrication of documents, discrepancies in minutes of Board meetings, resolutions. The statements of witnesses attribute specific overtact to persons named therein for sanctioning loan, concealing documents, fabrication of documents, pressurising witnesses, holding meetings with prime accused, suppressing vital information from RBI, opening fictitious accounts, visiting branches, advancing loan witnesses collateral security. The RBI Circular lays down certain embargo for interfering in day to day activities of bank. Considering nature of evidence further detention of applicants is not necessary. There are no criminal antecedents against applicants.

29. In the case of ***P. Chidambaram (Criminal Appeal No. 1831/2019 dated 4.12.2019*** the Apex Court has observed that the accused has not influenced any person while he was at large, the allegation of tampering while in custody is not acceptable. When

there is no document to indicate that the accused is involved, the mere allegation that, the accused is co-conspirator cannot be the basis to indicate that an economic offence has been committed by accused. The accused therein, is not in political power, nor holding any post of the Government so has to be in position to interfere. It was further observed that the availability of the accused for further investigation, interrogation and facing trial, is not jeopardized, as he is held to be not a flight risk and there is no possibility of tampering evidence or influencing /intimating the witnesses.

30. In the case of ***Sanjay Chandra (Supra)*** it was observed that the object of bail is to secure the appearance of the accused, it is neither punitive, nor preventive deprivation of the liberty must be considered a punishment, unless it can be required to ensure that an accused person who will stand his trial when called upon. The grant or refusal to grant bail lies with the discretion of the Court. Bail ought not to be denied, to teach a lesson to the person whose offence is yet to be proved.

31. In the case of **Y. S. *Jaganmohan* Reddy (Supra)** wherein it was observed that nature of acquisition and evidence, severity of punishment which conviction will entail the character and circumstances, which are peculiar to the accused, reasonable possibility of securing persons of the accused at the trial, larger

interest of the public / state, and other similar considerations are required to be taken into account.

32. In the case of ***Serious Fraud Investigation offence (Supra)*** it was observed that specifically heed must be paid to stringent view taken by the Supreme Court towards grant of bail with respect to the economic offences.

33. In view of observations made here-in-above and considering the fact that the applicant here-in-above are in custody for about 17 months. Further detention of the applicants is not necessary. Bail can be granted to them.

34. Hence, I pass the following order:

O R D E R

i) Bail Application No. 1620 of 2020, Bail Application No. 778 of 2021 and Bail Application No. 213 of 2021, are allowed;

ii) The applicants are directed to be released on bail in connection with C.R. No. 375 of 2019, registered with Bhandup Police Station, Mumbai and investigated by EOW Banking II vide C.R. No.86/2019 on executing P.R. bond in the sum of Rs.1,00,000/-(Rupees One Lakh Only) each with one or more sureties in the like amount;

iii) The applicant shall report E.O.W. Crime Branch once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. for a period of six months and thereafter, once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m till further order;

iv) The applicants shall not tamper with the evidence;

v) The applicants shall deposit their passports before trial Court;

vi) The applicants shall not leave India without prior permission of trail Court;

vii) In the event the applicants do not have passport, they shall file affidavit stating so before the Trial Court;

viii) The applicants shall attend Trial Court regularly on the date of hearing of the case unless exempted by the Court;

ix) The applicants are permitted to furnish provisional Cash Bail Security in the sum of Rs.1,00,000/- for a period of eight weeks in lieu of surety;

X) The observation made herein are prima-facie for considering application for bail and the trial court shall not be influenced by them during trial;

Xi) Bail Applications and interim applications, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)