IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2030 OF 2018

Ketan Anant Raj alias Ketan Rajpopat .... Applicant

Vs.

1. Inspector of Police, ... Respondents
2. State of Maharashtra

WITH

CRIMINAL APPLICATION NO.1237 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO.2030 OF 18

Rajkot Nagrik Sahakari Bank Ltd. .... Intervenor/Applicant

In the matter of

Ketan Anant Raj alias Ketan Rajpopat .... Applicant

Vs.

1. Inspector of Police, ... Respondents
2. State of Maharashtra

Mr. Shirish Gupte, Senior Advocate i/by Racheeta R. Dhuru for Applicant.

Ms. Sharmila S. Kaushik, APP for State.
Mr. Yogendra Rajgor for Intervenor
API, Pradeep Pagare, L.T. Marg Police Station, Mumbai present.

Coram : NITIN W. SAMBRE, J.
Date : 16th JULY, 2021

P.C.:

1. Heard Mr. Gupte, learned Senior Counsel appearing for the Applicant and learned A.P.P. for State.

2. The applicant is one of the Directors of Krishnai Hospital Private Limited. For improving its logistic infrastructure a loan of about Rs.8.5 Crore was sanctioned from the Co.op.Bank, which was to be disbursed to suppliers of medical equipments, estimates of which were furnished with the loan proposal.

3. As the said amount was misused, the complainant-Bank alleged an offence referred above particularly in the background of the fact that the applicant by opening account in the name of fictitious firm swindled the loan amount.

4. Mr. Gupte, learned Senior Counsel appearing for the Applicant would urge that the nature of transaction between the Applicant's Firm and the complainant are purely contractual. According to him, sufficient collateral was made available to the bank at the time

of disbursing entire loan amount, so as to secure the interest of Bank. Mr. Gupte, then would urge that since more than two years, the applicant is not arrested and in view of interim protection, and has attended and co-operated with the investigating agency. That being so, his interim protection needs to be confirmed. Further contentions are, the proceedings for recovery at the behest of the complainant are already subjudiced before the D.R.T. and D.R.A.T. There are about 7 flats mortgaged with the said Bank, in addition to the hospital and that being so, the Applicant, a Doctor by profession needs to be protected by granting bail in the event of his arrest in Crime No. 157 of 2018, registered with L.T. Marg Police Station, for the offence punishable under Sections 420, 406, 170, 465, 467, 468 and 471 of Indian Penal Code.

5. Learned APP, Ms. Kaushik is assisted by learned counsel appearing for the complainant would oppose the prayer for grant of bail. According to her, after the loan was sanctioned by the complainant-Bank, said loan amount was made to disburse to the Firms,

whose quotations were submitted for purchase of machinery along with loan application.

6. Accordingly, amount of Rs.8,44,16,970/- was disbursed.

7. According to her, most astonishing facts of the offence in question committed by the applicant is, the Pay Orders were collected by the applicant for an amount of Rs.95,40,375/- and 1,02,79,659/- in the name of Solutions Enterprises were not deposited in the account of the said Firm. The applicant, by practicing fraud opened bank account in the name of said Firm deposited the aforesaid Pay Orders to the tune of about Rs.2.00 Crores and further diverted the said amount to various Firms.

9. Learned APP, would also urge that, till date in absence of custodial interrogation of the applicant, said loan amount cannot be traced out and as such the applicant's involvement in question can be inferred, which warrants custodial interrogation. The applicant has at all

not co-operated in the investigation by furnishing the details of the flow of the above illegally diverted amount.

10. It is further informed that the son of the applicant was arrested in the aforesaid crime, however, during investigation, it revealed that the applicant is the main kingpin in the aforesaid crime and as such his custodial interrogation is necessary.

11. Considered rival submissions.

12. The applicant, a doctor by profession, has got himself involved in a white collar crime. The applicant along with loan application submitted quotations of various firms which were found to be the basis for the purpose of evaluating the cost of the machinery / medical equipments to be purchased so as to upgrade his hospital. The modus as was adopted by the applicant while getting the loan disbursed is to collect the cheques from the complainant-Bank and hand over the same to the firms whose quotations were supplied with the loan

application with an order for supply of the equipments.

The applicant created a dubious firm similar in the name with that of one mentioned in the quotations thereby showing himself as one of the Directors with his wife and son and deposited the pay orders issued by the complainant bank in the name of the said firm. After the amount was deposited in the name of such fictitious firm, the applicant has mismanaged the said funds almost to the tune of Rs.2 Crores thereby practicing fraud on the complainant bank.

13. Just because the applicant is a doctor by profession does not give him lever to get involved in a serious crime like the one in question which has far reaching financial implications over the banking business of the complainant, particularly when the complainant holds the money of the public at large in trust.

14. Though Mr. Gupte has urged that the amount is secured by giving collateral, however, the fact remains that the intention of the

applicant from day one appears to be to commit fraud as the applicant has also defaulted in repayment. As a consequence, the applicant was required to be proceeded against before the various forums for recovery of the amount which is till date not effected. Rather, the collateral given to the complainant bank was also not having clear title as it appears that the applicant has taken loans from the other financial institutions. To secure the loan of the complainant-bank complainant was required to adjust the said loan by clearing the title to the said property. As such, it appears that the applicant, in a calculated and organized way has committed the offence in question. From the criminal conduct of the applicant it can be inferred that necessary ingredients of the sections of I.P.C. under which he is booked are satisfied.

15. Though it is claimed that the applicant has appeared before the investigating agency, the same was under ad-interim protection ordered by this Court. The applicant, as is informed by the learned A.P.P. has at all not co-operated in the investigation as the

mismanagement of amount of Rs.2 Crores and above cannot be traced, particularly its flow in the absence of the co-operation of the applicant.

16. Merely because the amount is secured by collateral security or the applicant has appeared before the investigating agency does not give her any lawful ground to claim the pre arrest bail in a serious offence like the one.

17. The Apex Court in catena of judgments has already held that the Courts are required to be sensitive while dealing with the prayer for grant of bail in offences having financial implications over the society, particularly like the one committed by white collar criminal.

18. In the aforesaid background, in my opinion, no case for pre-arrest bail is made out. Application, as such, fails and stands rejected. Consequently, Criminal Application No.1237 of 2018 taken out therein does not survive and the same also stands disposed of.

19. However, having regard to the fact that the applicant was on ad-interim protection for a period of two years, the same is continued for a period of ten days as has been prayed by the learned Counsel for the applicant.

(NITIN W. SAMBRE, J.)