IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [BA] NO. 1290/2020.
Yauvan Gambhir s/o Jeevan Gambhir.
-**VERSUS-**
State of Maharashtra and another.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri A.A. Naik, Advocate for the Applicant.
Ms. S. Jachak, A.P.P. for Non-applicants.

CORAM : VINAY JOSHI, J.

DATE : APRIL 20, 2021.

Heard learned Counsel for the parties through video conference.

2. The applicant is arrested on 14.09.2019 in connection with Crime No.181/2019, registered with Dhantoli Police Station, Nagpur for the offence punishable under Sections 406, 409, 420, 465, 467, 468, 471, 477-A and 120B of the Indian Penal Code, Section 65, 66(B) of the Information Technology Act, 2000 and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. The applicant / accused is in jail since last 1 ½ year. The charge sheet runs into 35000

pages and several witnesses are to be examined. In such a background, the applicant has prayed for bail on merits, as well as by contending that the trial will take few years to complete, hence, he is entitled for bail.

3. The State has strongly resisted the bail application by contending that the applicant has duped the Bank for lakhs of rupees. Still huge amount is due from the applicant, and if he is released, there are no chances of recovery. Having regard to the nature of accusation and seriousness of the offence, the State has prayed for rejection of the application.

4. It is alleged that the applicant – a borrower, has procured loan from Navodaya Urban Cooperative Bank Limited, Nagpur and failed to repay the same. According to the police papers, the applicant has availed loan of Rs. 70 lakhs on 20.03.2012 by mortgaging immovable property and illegally availed the benefit of one time settlement. It is further alleged that the applicant by joining hands with the valuer namely Prasad Pimple had shown inflated valuation of the security and obtained huge loan. Moreover, it is alleged that the applicant has forged stamps and signatures of the Chartered Accountant and thereby produced false Balance-sheet to obtain loan.

5. It reveals that the Bank had sanctioned a loan of Rs.70 lakhs to the applicant by accepting security. The applicant's loan account was settled under One Time Settlement Scheme, as floated by the State Government.

6. In view of the Government Resolution dated 16.03.2016, one time settlement is permissible. There is a sub-committee of the Bank for implementing the said scheme. The said sub-committee consists of President, Directors and Chief Executive Officer of the Bank. Apparently it was the duty of the Committee to either grant or refuse the proposal for one time settlement. The office note indicates that the Committee has accepted proposal for one time settlement of the applicant and in pursuance of the same, the applicant has deposited an amount of Rs.83.90 lakhs towards settlement. Though it is argued that the applicant was not eligible for one time settlement scheme, however, it is a matter in dispute which requires to be proved during the course of trial. The fact remains that the applicant has paid the amount adjudicated by the Committee under one time settlement scheme.

7. It reveals that the applicant has availed loan in the year 2012, whilst his one time settlement proposal was accepted in the year 2016. At the instance of an Audit Report pointing out

financial irregularities in Bank transaction, a first information report was lodged in the year 2019. Pertinent to note that the applicant is neither a Director nor an employee or part of the management of the Bank. His one time settlement proposal was sanctioned by the Committee and therefore, there is substance in the contention of the applicant that he has no role in acceptance of the proposal for one time settlement.

8. The applicant is languishing in jail for a considerable period. He has already deposited an amount of Rs.83.90 lakhs towards one time settlement. Other co-accused including the Chairman of the Bank were released on bail. Valuer Prasad Pimple has also been released on bail by this Court. Likewise several borrowers were also released on bail. The applicant is not having any criminal antecedents at his discredit. Nothing has been placed on record to show that the applicant has participated in or influenced the decision making process about acceptance of his proposal towards one time settlement. There is no material to hold that the applicant will not be available for trial.

9. It emerges from the police papers that charge sheet runs into 35000 pages and near about 80 witnesses are to be examined. Obviously, the trial will take long time for its disposal. The entire

case is based on documentary evidence which is already part of the charge sheet. Therefore, by imposing certain stringent condition, the applicant can be released on bail. Hence, the following order.

(i) Criminal Application is allowed and disposed of.

(ii) The applicant – Yauvan Gambhir son of Jeevan Gambhir, be released on bail in connection with Crime No.181/2019, registered with Dhantoli Police Station, Nagpur for the offence punishable under Sections 406, 409, 420, 465, 467, 468, 471, 477-A and 120B of the Indian Penal Code, Section 65, 66(B) of the Information Technology Act, 2000 and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 on his furnishing P.R. bond in the sum of Rs.2,00,000/- (Rs. Two Lakhs only), with one solvent surety in the like amount.

(iii) The applicant-accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the prosecution evidence.

(iv) The applicant-accused shall not leave the Country without prior permission of the concerned Court.

(v) The applicant shall attend the concerned Investigating Agency once in a month i.e. on first Monday of each month in between 10 a.m. to 12 noon.

(vi) The applicant-accused shall provide his residential address and cell number to concerned Investigating Officer / Agency and shall not change his place of residence without prior intimation to the concerned Investigating Officer.

(vii) All pending Misc. Application/s, if any, also stands disposed of.

JUDGE

Rgd.