IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2157 OF 2021
WITH
INTERIM APPLICATION NO. 2302 OF 2021
IN
BAIL APPLICATION NO. 2157 OF 2021
(corrected as per order dt. 30/08/2022)

Shripad Govind Jere .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr. Niranjan Mundargi with Keral Mehta and Ishwar Chavan i/b Praful Soni for the applicant.
Ms.P.P. Shinde, APP for the State.
Ms.Bhavana Dubepatil for the intervenor.

CORAM: BHARATI DANGRE, J.
DATED : 23rd AUGUST, 2022

P.C:-

1 Heard learned counsel Mr.Mundargi for the applicant and the learned APP Ms.Prajakta Shinde for the State. Advocate Bhavna Dubepatil is also heard for the intervenor.

2 The applicant is charged by the EOW in C.R.No.86/2019 which invoke Sections 406, 409, 420, 465, 467, 468, 471, 477A, 120-B of the IPC read with Sections 46(1), 47-A of the Bank Regulation Act, 1949.

He came to be arrested on 12/3/2022 and on completion of investigation, through the EOW, charge-sheet is filed where he is arraigned as accused no.15. At present, he is detained in Taloja Central Prison.

3 The complaint lodged by one Jasbir Matta, Manager of Recovery Cell, Punjab and Maharashtra Co-operative Bank (PMC Bank), on being authorized by the administrator appointed by Reserve Bank of India, narrated, that PMC Bank which is registered under the provisions of Maharashtra Co-operative Societies, conduct its business subject to the provisions of Banking Regulation Act, 1949 and directions issued by the RBI.

It is alleged that Mr.Joy Thomas, Managing director and other functionaries, including the Board of Directors, Executive of PMC Bank, intentionally reported false record of accounts to the RBI, so as to suppress the material position of loan accounts of HDIL group of companies. It is alleged that in it's Advances Master Indent, (Detail of Loan Accounts) for the year ending of 31/3/2018, submitted to RBI, the Bank replaced 44 loan accounts of HDIL and its group companies, whose individual balance outstanding significantly higher was shown to be comparatively low. It is also alleged that 21,049 such accounts were actually not created in the core banking solution of the bank, but mere entries were made in the advances Master Indent, merely for the purpose of conducting inspection, with the full knowledge that the said has been camouflaged to the detriment of the Bank and to the depositors interest.

The actual financial position of the Bank was exaggerated and a rosy picture of the Bank was depicted, encouraging more depositors to open accounts with the Bank to their detriment by falsifying its true financial position. Officials of PMC Bank including Mr.Joy Thomas, Managing Director, Mr.Variyam Singh and other directors along with Mr.Sarang Wadhwan, Rakesh Kumar Wadhwan, Director of HDIL were accused as major players in the fraud.

4 As far as the applicant is concerned, he was appointed as Director (Civil) of Yardi Prabhu Consultants and Valuers Pvt.Ltd, which company was on the panel of PMC Bank since the year 2004-05 and was assigned the work of preparation of valuation reports of properties provided by the borrowers.

It is alleged that the applicant, in connivance with co-accused Mr.Vishwanath Prabhu, the then Managing Director of PMC Bank raised the actual value of property mortgaged by one Tejender Sigh Bal at 6th floor, flat no.603, Bholenath Residency, village Vadavali, Chembur, and Tejender Singh Bal insisted for additional loan amount on the same property already mortgaged with PMC Bank. It is alleged that the applicant in connivance with Mr.Vishwanath Prabhu prepared false valuation report of the property of Rs.162.60 lakhs as desired by co-accused Joy Thomas. It is alleged in the charge-sheet, that the valuation report dated 28/6/2018 is signed by the applicant and forwarded to PMC Bank on 12/6/2018, which shows that it was created backdated and based on the said report, the borrower availed desired credit facilities from PMC Bank. The accusations faced by the applicant is, the actual value of the property was less as compared to its market value, and that is how he is accused of contributing the wrongful loss caused to PMC Bank, as the Bank would not realize the actual cost of such mortgage properties, when the credited account of such borrowers became non-performing.

5 The specific accusation faced by the applicant in the charge-sheet is one M/s.Sapphire Land and Development Pvt.Ltd was in debt of Rs.10 crores and it was decided by PMC Bank to purchase the premises of the said company situated on Akurli Road, Kandivali (East) to square up the loan. The valuation of the said property owned by the Company was only Rs.3 crores. It is alleged that the co-accused Joy Thomas, the Managing Director of PMC Bank instructed to obtain fresh valuation of the property and the applicant was contacted for revision in the valuation of the property, justifying the purchase cost in lieu with the settlement amount owned by the Company, for which the sale deed was registered on 31/3/2018.

PMC Bank received a Desktop Valuation Report dated 4/3/2019 from M.s.Yardi Prabhu Consultants and valuers

Pvt.Ltd, where it is alleged that the fair market value was inflated from Rs.3 crore to Rs.7.76 crore.

6 In the charge-sheet, Vishwanth Prabhu is also alleged of a similar role and face somehow similar accusations of acting in connivance with main accused Joy Thomas by preparing false valuation reports.

His Bail Application was dealt by this Court (Justice Prakash D Naik) on 20/6/2022 (Bail Application No.405/2022) wherein, it was recorded that the prosecution has not controverted the submissions advanced on behalf of the applicant that amongst 75 reports of valuation, none is signed by the applicant and the prosecution is relying on statement of Ms.Kamaljeet Banwait, one Manjeet Kaur, and according to her statement, she had contacted Mr.Prabhu to finalise the valuation report and he was asked to increase the value of the properties. Manjeet Kaur was subsequently arraigned as an accused and therefore, the said statement was held to be not admissible.

7 Considering his long incarceration for more than two years with the role attributed to him, he was released on bail on 20/6/2022.

When the learned APP Ms.shinde is confronted with the said order and asked why the benefit of the said order cannot be extended to the present applicant, she state that the certificate dated 28/6/2018 is based on the valuation report by the present applicant where the market value has been indicated as Rs.1,63,00,000/- as against the earlier report dated 21/9/2017 where the market value of the flat at Vadavli, Chembur belong to Tejinder Bal was assessed as Rs.1,39,00,0000/-.

8 Considering that the valuation of the property as contained in the report dated 28/6/2018 is after one year, it is no surprise that the market value has gone up. In any case, she concede to the fact that before the Desktop Valuation Report was received on 4/3/2019, the property was already sold.

In such a contingency, the role that has assigned to Vishwanth Prabhu, a valuer with M/s.Yardi Prabhu Consultants and Valuers Pvt.Ltd, cannot be said to be different than what has been surfaced through the charge-sheet and referred to in the order passed on 20/6/2022.

9 In the wake of the above, since the investigation is complete and the evidence in form of documents is already colated in the charge-sheet, further detention of the applicant is not necessary, pending the trial.

The observations made hereinabove are prima facie in nature and limited to the extent of disposal of the present applications.

Hence, the following order :-

ORDER

(i) Bail Application is No. 2157/2021 is allowed.

(ii) The applicant is directed to be released on bail in connection with C.R.No.86/2019 on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount.

(iii) The applicant is permitted to furnish cash bail security of Rs.50,000/- for a period of six weeks in lieu of surety.

(iv) The applicant shall report the Economic Offences Wing Bank II (EOW), once in two months on first Monday of the month between 11.00 am to 1.00 p.m.

(v) The applicant shall not tamper with the prosecution evidence.

(vi) The applicant shall not leave India without prior permission of the Trial Court.

(vii) The applicant shall attend the trial Court proceedings regularly, unless exempted by the Trial Court.

In view of the disposal of Bail Application, IA No.2302/2021 stands disposed off.

(SMT. BHARATI DANGRE, J.)

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