IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1367 OF 2020

Navendu Babbar S/o. Kashmeri Lal Babbar ..Applicant

v/s.

The Central Burearu of Investigation, ACB,
Mumbai & Anr. ..Respondents

Mr. Hrishikesh Mundargi a/w. Ms. Pravada Raut for the Applicant.
Mr. Hiten Venegavkar for the Respondent No.1-CBI.
Mr.N.B.Patil, APP for the State.

CORAM : ANUJA PRABHUDESSAI, J.
DATED : 21st APRIL, 2022.

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Special Case No. 46 of 2019 pending before the Special CBI Court, Mumbai, for offences under Section 120B, 420, 467, 409, 468, 471 of Indian Penal Code and Section 12(2) r/w. 13(1)(c) & (d) of the Prevention of Corruption Act.

2. Heard Mr. Mundargi, learned Counsel for the Applicant, Mr. Venegavkar for the CBI and Mr. Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

3. The aforesaid crime was registered on the basis of complaint filed

by Dinesh Bharadwaj, Asst. General Manager of Punjab National Bank, Mumbai. The Complainant had alleged that Punjab National Bank had sanctioned Term Loan of Rs.5 Crores, and Rs.4.80 Crores as Working Capital to the Company M/s. Vision Machines Pvt. Ltd., of which Manish Soni (Accused No.2) and Kuldeep Verma (Accused No.3) were the Directors and Guarantors to the credit facility availed, and Mrs. Monika Babbar and Mr. Vilas Kashmiri Lal Babbar (Accused Nos.4 and 5 respectively) were Guarantors to the credit facilities availed by M/s. Vision Machines Private Limited. The said loan was secured by way of primary as well as collateral security. The accused failed to pay the installments, hence the account was declared as Non Performing Asset (NPA) with an outstanding of 9,97,72,372/- as on 24.01.2016. It was revealed that the properties which were in the custody on behalf of the bank as primary and collateral security, were not available. Hence, complaint came to be filed, on the basis of which the aforesaid crime came to be registered.

4. In the course of investigation, it was revealed that the Applicant herein was the mastermind. He had set up companies in the names of his employees, obtained loan in the names of his employees and diverted the funds to his personal account and the accounts of his family members.

5. The records, more particularly, the statement of the witnesses, in whose name the loan was availed, prima facie reveals that the accounts itself were fraud accounts. He had set up fake companies in the name of his employees only to avail the loan. These employees were shown to be Directors of the Companies. The records also prima facie indicate that forged receipts of Kundan Das Bricks Company, Jagdish Traders, M.M.Enterprises, M/s. Heico Electronics and Revatech & Sons were submitted to the Punjab National Bank by the borrower. Money was obtained in the name of the various companies which were set up only for the purpose of taking loan. The amount was subsequently diverted to the personal account of the Applicant and his family members.

6. The term loan was also disbursed from the account of M/s. Vision Machines Pvt. Ltd. to the accounts of M/s. Heico Electronic, Revatech & Sons, M.M.Enterprises, Kundandas Bricks Company and Radhika Electronics, of which the Applicant and his family members were the account holders. The amount of term loan was also diverted in the other accounts of the family members of the Applicant, and was withdrawn by his family members. The money trail further reveals that cash credit amount of M/s.Vision Machines Pvt. Ltd., was disbursed to Vishwakarma Industries, Jai Ambe Industries, Kanika Electronics, Karvy Alloys, Kundandas Brick Company, M/s. Heico Electronics, Dhawan

Sons, Trident Techlabs, etc which belong to the family of the Applicant and the employees of the Applicant. The amount of cash credit was also diverted to the other accounts of the family members of the Applicant.

7. The statement of the witnesses, in whose name the loan was availed also shows the role played by the Applicant in establishing the said companies and availing the loan. The statements of these witnesses, recorded under Section 161 Cr.P.C. as well as under Section 164 of Cr.P.C. reveal that they were the employees of the Applicant, they were not educated and working as peon and associates of the Applicant. Their statements indicate that they were made to sign several documents under the garb that they were being insured under medical policies, and that the Applicant had also represented to that them that the Applicant was going to expand the business abroad for which purpose their passport was necessary. They were made to sign some documents and cheques. These papers were subsequently used for availing the loan. Thus, the material on record prima facie reveals that the Applicant was involved in obtaining signatures of his employees under misrepresentation. He was also involved in establishing various fake companies in the names of his employees for the purpose of availing loan. He obtained the loan without there being any genuine business transaction, and diverted the loan amount of Rs.9,97,72,327/- to his own

account and to the account of his family members and have thus misappropriated public funds..

8. The records further reveal that after the conspiracy came to surface, the Applicant and his family members absconded. They switched off their mobile phones and changed their location. They were apprehended at Delhi on 14.02.2020. Hence the possibility of the Applicant fleeing from justice cannot be ruled out.

9. Considering the gravity of the offence, the societal interest and the conduct of the Applicant, this is not a fit case for grant of bail. Hence the Application is dismissed.

(ANUJA PRABHUDESSAI, J.)