IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2718 OF 2021

Yogesh Suresh Pushikar .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr. Aniket Vagal a/w. Kunal Pednekar for the Applicant.
Mr. S.V. Gavand, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 27th JULY, 2022

P.C:-

1. The applicant is accused of the offences punishable under Sections 409, 418, 420, 465, 467, 468, 474, 484, 120(B) read with Section 34 of the Indian Penal Code.

He came to be arrested on 30.07.2019 in connection with CR.No.266 of 2019 registered at Manikpur Police Station, which invoked the aforesaid offences and face a charge that he introduced the borrowers to the bank, who without intimating the NKGSB Co-operative Bank, that they have already obtained loan from other financial institutions, and by producing false documents availed loan from the bank.

2. Heard the learned counsel for the applicant and the learned APP for the State. With their assistance, I have perused the charge-sheet, which is placed on record.

The learned APP do not dispute the fact that barring the present applicant, all co-accused in the subject CR are released on bail.

3. Perusal of the charge-sheet would reveal that the Branch Manager of NKGSB Co-operative Bank Limited, Vasai lodged the complaint alleging that the borrowers, being 16 in numbers obtained loan from the bank without disclosing the encumbrances on the property, which are mortgaged with the bank as security for repayment of loan. He also reported that some of the properties are already disposed of.

It is alleged that in order to procure the loan from the bank, fraudulent no objection certificates, share certificates, no objections from the developers were produced, aapart from the Pan Card, Aadhar Card, Income Tax Returns and copies of the passbook, which were self-attested. Not only this, fraudulent stamps were used for forging the document and forged signatures and different photos were put to use for obtaining huge amount of loan. In this whole transaction, a loan of Rs.3,04,50,024/- was sanctioned by the bank and it is alleged that all the accused-persons, misappropriated the said amount and duped the bank to the aforesaid exchange.

4. On completion of investigation, the charge-sheet is filed which ascribe specific role to each of the accused and as far as the applicant is concerned, he is described as a key conspirator and it is alleged that he has prepared fraudulent papers like NOC, share certificates, bank passbook, Pan Card, Aadhar Card and other documents, on the basis of which the loan was disbursed. The charge-sheet allege that he introduced 7 customers to the bank and reaped benefit out of it. It is alleged that, from Praful Kansara and Devang Kansara, he has received a sum of Rs.13 Lacs which can be discerned from the bank statement.

5. As per the procedure given by the complainant whenever

the loan proposals are received, it is incumbent, on part of the concerned branch of the bank to verify the said documents and the then the Branch Manager, Mandar Aacharya, the co-accused is charged with dereliction of duty, by not noticing the fraudulent documents and sanctioning the loan on the basis of such documents.

6. When the learned APP was asked to point out the specific material in the charge-sheet, attributing the role, that the signatures, stamps on the documents have been forged by the present applicant, the learned APP would submit that there is no material to that effect, but the fact that he has been benefited from the transaction to the tune of Rs.13 Lacs demonstrate that he is responsible for doing so.

7. On perusal of the charge-sheet, I find no material indicating the above. Though the charge-sheet reflect that the applicant has been benefited to the tune of Rs.13 Lacs, which is not disputed by the learned counsel for the applicant, since he submit that for availing the loan, his services were engaged, he had received his commission on the loan being sanctioned.

8. Mr. Vagal, the learned counsel for the applicant has placed on record the order releasing Mandar Aacharya, the Manager of the Branch, on bail who was duty bound to scrutinize the documents and verify its genuineness, before the loan was to be sanctioned. He came to be released on bail on 18.10.2019 by the learned JMFC. The order record that the Investigating Officer gave his no objection to release him on bail.

Admittedly, the said order has not been challenged by the prosecution and Mandar Aacharya continue to be on bail. Praful Kansara and Devang Kansara as well as all other co-accused, who are the borrowers who took financial benefit by submitting forged documents are also released on bail.

9. The applicant shall face the consequences on being accused of the charges foisted on him, but at present since the investigation is complete and the entire material is compiled in the charge-sheet, coupled with the fact that the co-accused are released on bail, the applicant do not deserve his further incarceration.

The learned APP do not point out any material to show that the applicant has an antecedents. In the wake of the above, he deserve his release on bail.

10. Hence, the following order.

<u>O R D E R</u>

(a) Application is allowed.

(b) Applicant – Yogesh Suresh Pushilkar shall be released on bail in connection with C.R.No.266 of 2019 registered at Manikpur Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(c) The applicant shall report to the concerned police station on first Monday of trimester between 10.00 a.m. to 1.00 p.m. till framing of the charge-sheet.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(SMT. BHARATI DANGRE, J.)