IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1053 OF 2020

Arvind Kumar Sethi ..Applicant

v/s.

Union of India & Ors. ..Respondents

Mr. Prashant Pandey a/w. Darshit Jain, Aivan Memon, Irfan Unwala, Vidhi Karia, Pradip Singh for the Applicant.
Ms. Amita Kuttikrishnan for the Respondent CBI-EOB.
Mrs. Rutuja Ambekar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.
DATED : 29th MARCH, 2022.

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant seeking pre-arrest bail in C.R.No.RC068202E0004 registered with E.O.B, Mumbai for the offences punishable under Section 420, 120B of Indian Penal Code and Section 13(23) r/w. 13(1)(D) of Prevention of Corruption Act, 1988.

2. Heard Mr. Pandey, learned Counsel for the Applicant, Mrs. Amita Kutti Krishnan for the C.B.I and Mrs. Ambekar, 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 pursuant to the FIR lodged by Shri V.V.Natrajan, Sr. Regional Manager DGM, Central Bank of India, South Mumbai Regional Office, Fort, Mumbai. It is alleged that three

firms, namely (i) Ms. Nandini Milk and Milk Products, (ii) M/s. Janhavi Enterprises and (iii) M/s. Kavya Traders were involved in fraud. It is alleged that these firms had applied for loan on the the basis of some agreement entered into with the existing plants and after sanction of the loan, the money was diverted in private account and was misappropriated. The credit facilities is also alleged to have been misused. The total fraud is alleged to be Rs. 10,88,00,000/-. The Applicant, who was the Branch Manager of Central Bank of India, Mumbai Main Branch is also implicated in the said crime.

4. The loan was disbursed on 27.5.2011 and the account was classified as NPA Account on 27.9.2013. The Applicant was transferred from Delhi Branch to Mumbai Branch on 14.11.2011 i.e. prior to sanction of the loan. The Departmental Enquiry was conducted against the Applicant for certain acts of omissions and commissions while dealing with the accounts of M/s. Kavya Traders, M/s. Janhavi Enterprises and M/sw. Nandini Milk and Milk Products. He has been held guilty for (i) Not obtaining certificate from the Chartered Accountant for inspection of Book debt statements.

(ii) Delay in obtaining post sanction inspection in the accounts after disbursement of facilities..

(iii) Failure to ascertain realistic value of the properties and accepting inflating valuation of the properties without proper inquiry and due diligence.

5. The question whether the Applicant failed to exercise due diligence or whether he was a part of the conspiracy to cheat the bank is a matter which needs adjudication. Prima facie there is no material to show that he had obtained any undue advantage / favour or gain by his acts of omission/commission. The Applicant cannot be declined bail for lapses on his part when prima facie there is lack of criminal intent.

6. Be that as it may, it is stated that Applicant was granted interim bail on 22.12.2020. He has reported to the Investigating Officer and has co-operated with the investigation. The investigation is completed and chargesheet has been filed. No fruitful purpose will be served by detaining the Applicant in custody pending trial, which is not likely to be concluded in the near future due to pendency of large number of cases. Hence the Application is allowed on the following terms and conditions:

(i) In the event of arrest of the Applicant in C.R.No.RC068202E0004 registered with E.O.B, the Applicant be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(ii) The Applicant shall appear before the Special Court on each and every date of hearing.

(iii) The Applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer.

(iv) The Applicant shall not change his residential address without prior intimation to the Investigation Officer.

(v) The Applicant shall not interfere with the complainant and the other witnesses in any manner.

(vi) The Applicant shall not leave the country without prior permission of the Court.

PRASANNA P SALGAONKAR Digitally signed by PRASANNA P SALGAONKAR Date: 2022.04.05 11:09:18 +0530

(ANUJA PRABHUDESSAI, J.)