IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2631 OF 2021

Manoj s/o. Shreedhar Khatavkar … Applicant
Vs.
State of Maharashtra … Respondent

Mr. Shailendra Gangakhedkar a/w. Ms. Garima Joshi and Ms. Bijal Gogri i/b. GNP Legal for Applicant.
Ms. P. N. Dabholkar, APP for Respondent-State.
Mr. Mohan Dadasaheb Shinde, Dy. S.P., EOW, Satara present.

CORAM : NITIN W. SAMBRE, J.
DATE : SEPTEMBER 12, 2022

P.C. :

Heard.

2. By this application, the applicant is seeking pre-arrest bail in C.R.No.167 of 2021 registered with Wai Police Station, Satara for offences punishable under Sections 420, 464, 465, 467, 468, 471 and 34 of the Indian Penal Code read with Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3. The prosecution case against the applicant is as under:

3.1. Special Auditor Class I under the Maharashtra Co-operative Societies Act, 1960 carried out audit of Hari Hareshwar Co-operative Bank Limited (for short 'Co-operative Bank'). During such special audit, it was noticed that the directors including the present applicant have caused financial loss to the said bank to the tune of Rs.37,46,89,344/-. The applicant is shown to have worked with the bank from the year 2011-2012 till 31.03.2019.

4. The contentions of counsel for the applicant are that the applicant has submitted satisfactory reply to the show cause notice issued to him

based on the aforesaid report of the auditor. According to him, on 25.04.2016, the applicant has already submitted his resignation and did not participate in the proceedings of the said Co-operative Bank. He would invite attention of this Court to certain documents viz., the responsibility / liability taken over by the co-accused Vajir Kasambhai Shaikh (deceased) and Nandkumar Dnyaneshwar Khamkar who was a founder Director and Chairman of the said Co-operative Bank. According to him, the applicant is not a beneficiary of any of the amount of loans allegedly illegally sanctioned by the Loan Committee approved by the Board of Directors and that being so, he deserves to be released.

4.1. He would further invite attention of this Court to the order of release of two co-accused *viz*., Chartered Accountants who were co-opted as expert Directors on pre-arrest bail. His further contentions are the applicant pursuant to the ad-interim protection ordered by this Court has attended the investigating officer for almost 15 times and has also co-operated in the investigation by furnishing his sample of signature / handwriting. As such, he would urge that since the entire offence alleged against him is based on the documentary evidence, his custodial interrogation is not required.

5. Learned APP Ms. Dabholkar would oppose the prayer as according to her even if the applicant resigned on 25.04.2016, the special auditor's report speaks of the participation of the applicant in the various proceedings of the bank till 31.03.2019. She would invite attention of this Court to five loan proposals, in all, which were sanctioned by the Loan Committee and approved by the Board of Directors of which the applicant was a member. According to her, the applicant consciously granted an approval to the aforesaid illegal loans based on the guarantee created in favour of the said Co-operative Bank on the basis of the forged title deeds. As such, according to her, the custodial interrogation of the applicant is very much required.

5.1. Though it is claimed by the applicant that he has attended the investigating officer so as to co-operate in investigation for 15 times, the said position is sought to be disputed by the APP. According to her, the applicant is not co-operating in the investigation by presenting himself before the investigating officer which led to passing of order of vacation of interim protection.

6. Counsel for the applicant submits that the interim protection so vacated was subsequently restored after appreciating the fact of the co-operation by the applicant.

7. I have appreciated the said submissions.

8. Though the applicant has claimed that he has resigned from the post of Director of the said Co-operative Bank on 25.04.2016, the report of the auditor in categorical terms speaks of the presence of the applicant in the proceedings of the bank as on 31.03.2019. The applicant in the capacity of an elected Director of the said Co-operative Bank has approved the sanction of loan of Rs.30 lakhs to Dnyaneshwar Haribhau Mordekar; Rs.28 lakhs to Hanmat Anant Deshmane; Rs.27 lakhs to Raju Dinkar Ghate; Rs.28 lakhs to Balu Navnath Shinde; Rs.30 lakhs to Amol Dilip Aamrale and Rs.13 lakhs to Rajesh Bharat Nikam. All these loans which are approved by the Loan Committee of which the applicant was a member are based on the securities which are in the form of deposit of title documents of immovable properties. However, the claimants of the loans lack their title to the said properties as the properties already stood transferred before mortgaging the same with the bank. As such, it is apparent that the applicant is party to the decision-making process of not only sanctioning but also disbursing loans which run into crores.

9. Even if the case of the applicant that he has resigned from the bank on 25.04.2016 from the post of Director is appreciated, the fact remains that the aforesaid approval of the loans and its disbursement by the Board of Directors of which the applicant was a member is prior to such resignation.

10. Though it is claimed that the other two co-accused viz., co-opted directors who were Chartered Accountants are released on pre-arrest bail by the court below, what can be noticed is that the applicant was an elected director and has approved the sanction and disbursement of the loan which perhaps was not the case with the said directors. Merely because the applicant has appeared before the investigating officer and has furnished his sample signature for verification, cannot by itself make him entitle for grant of protection by this Court.

11. The said Co-operative Bank, of which the applicant was a Director, holds the funds of its members under trust and requires to deal with the same in the most responsible manner. It appears that the sanction of loan by the Loan committee of which the applicant was a member and illegally disbursing the same based on the forged title documents not only in one case but on repeated occasions, primarily prompts this Court to believe that the applicant is a party to such illegal decisions.

12. In the aforesaid background, in my opinion, the custodial interrogation of the applicant as claimed by the investigating officer is quite justified. That being so, no case for bail is made out. The application, as such, fails and stands rejected.

13. At this stage, counsel for the applicant submits that the ad-interim protection in favour of the applicant is in operation for a period of more than ten months and as such the same be continued.

14. The prayer is objected by learned APP.

15. However, in the light of the fact that the applicant was enjoying interim protection for the period of more than ten months, it will be appropriate to continue the interim relief for the period of three weeks from today. After the expiry of three weeks, the interim protection shall cease to operate automatically.

(NITIN W. SAMBRE, J.)