IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.536 OF 2014

The Kapol Co-Op. Bank Ltd. .... Applicant

versus

Zujer Taherbhai Rajkotwala & Anr. .... Respondents

…....

- Mr. K. M. Sangani, Advocate for Applicant.
- Mr. Kripashankar N. Pandey i/b. Maitreya G. Shukla, Advocate for Respondent No.1.
- Smt. J. S. Lohokare, APP for the State/Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th SEPTEMBER, 2022

P.C. :

1. This is an application for setting aside the order dated 28/08/2014 passed by the Additional Sessions Judge, Mumbai, in Anticipatory Bail Application No.1847 of 2013. That order was passed on 28/08/2014. More than 8 years have passed. Today, learned counsel for Applicant i.e. the first informant is seeking cancellation of the Anticipatory Bail Application granted vide that order on merits of the matter. There are no allegations

made by him that the Respondent No.1 had breached any of the conditions or has not been available during trial.

2. Heard Mr. K. M. Sangani, learned counsel for the original first informant i.e. the Applicant, Mr. Kripashankar N. Pandey, learned counsel for Respondent No.1 and Smt. J. S. Lohokare, learned APP for the State.

3. The matter pertains to the original C.R.No.130 of 2013 registered at M.R.A. Marg Police Station u/s 409, 420, 465, 467, 468, 471, 120-B of the Indian Penal Code. That FIR was lodged on 05/06/2013. It was lodged by Hemant Durgaparas Dave, who was working as a branch manager of Fort branch of the Applicant i.e. The Kapol Co-Op. Bank Ltd. The FIR is in respect of the discount facilities availed by M/s. Taher Impex Pvt. Ltd. and M/s. Decent Corporation, a proprietorship firm through the letters of credit. According to the FIR, those letters of credit were forged. It is mentioned in the FIR that on 28/03/2012 Kuresh Taherbhai Rajkotwala and Respondent No.1 herein had

approached Fort branch of the bank. They wanted discount facility. They furnished certain documents on 09/04/2012. They were pertaining to L.Cs. as well as Bills of Exchange. Those documents were pertaining to Induslnd Bank, Khar branch. After receiving those documents, the officers of the bank went to the Khar branch of Induslnd Bank to verify the genuineness of those documents. The then branch manager of that branch identified the signatures on the documents and verified the genuineness of those documents. After that, the credit facility was extended to M/s. Taher Impex Pvt. Ltd. Subsequently it was found that those documents were not genuine and even some bank officers had helped the accused. Thus the amount of Rs.7,13,06,400/- was misappropriated by M/s. Taher Impex Pvt. Ltd. based on those documents. There are further allegations in respect of M/s. Decent Corporation. The proprietor of that firm was brought to the bank by Kuresh Rajkotwala. He introduced the proprietor of M/s. Decent Corporation as Deepak Charandas Bhatia to the bank officers. By similar modus by submitting forged documents, the amount of Rs.7,49,93,100/- were misappropriated. Thus total amount of misappropriation was Rs.14,62,99,500/-. Based on these allegations, the FIR was lodged.

4. The present Respondent No.2 filed Anticipatory Bail Application No.1847 of 2013 before the Sessions Court, Mumbai. That application was allowed by the impugned order dated 28/08/2014. It was observed in that order that there were arbitration proceedings initiated by the complainant bank. The FIR itself mentions that the documents were scrutinized by the bank officers before extending the credit facility. The entire allegations are based on the letter of credit allegedly issued by Induslnd Bank. The main allegations are against Mr. Kuresh Rajkotwala, who was released on bail. During the pendency of the Respondent No.1's Anticipatory Bail Application, he was granted interim protection on 09/12/2013 and he was directed to visit the concerned Investigating Officer every alternate day. The entire case was based only on the letter of credit, which was certified to be true and genuine by bank officers. This fact will

be decided during trial. Learned Additional Sessions Judge further observed that the Respondent No.1's signature would be enough for testing the handwriting. It was further observed that his custodial interrogation was not necessary. It was also observed that the matter was old and the Respondent No.1 herein was visiting the Investigating Officer since past 8 months before passing of the order. The main accused was already released on bail. There were no allegations against the Respondent No.1 herein as far as second firm i.e. M/s. Decent Corporation was concerned. On this basis, with these observations the anticipatory bail application was allowed.

5. Learned counsel for the Applicant submitted that learned Additional Sessions Judge did not consider the merits of the matter in proper perspective. The FIR itself clearly spells out the role of the Respondent No.1 herein and therefore he should not have been protected by an order of anticipatory bail considering the amount involved in this offence.

6. Learned counsel for Respondent No.1 on the other hand submitted that the charge-sheet was filed on 05/12/2016. The trial is at the stage of framing of charges. One of the accused has already filed application for discharge. There are no allegations that the Respondent No.1 has interfered in any manner with the investigation or that he has not attended the Court diligently. He submitted that the Respondent No.1 has been attending the Court regularly and when he is not able to attend the Court, he is represented by his advocate.

7. I have considered these submissions. I have also taken into account the reasoning given by the Additional Sessions Judge while granting anticipatory bail to the Respondent No.1. That reasoning cannot be termed as perverse. It is a possible view. It was specifically observed that before passing of that order, the Respondent No.1 herein had attended the office of the Investigating Officer for 8 months. His custody after about 8 years today, therefore will not serve any purpose. The charge-sheet is already filed. The trial itself is ripe for hearing.

Therefore in my opinion there is no point in cancelling the anticipatory bail granted to the Respondent No.1. All the disputed questions now can be decided at the stage of trial. Therefore the application cannot be allowed. The application is dismissed.

(SARANG V. KOTWAL, J.)