2023:BHC-AUG:26630

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

954 BAIL APPLICATION NO.2201 OF 2023

Deepali W/o Devendra Kulkarni
VERSUS
The State Of Maharashtra
…..
Advocate for Applicant : Mr. Rajendra Deshmkukh Sr. Counsel
a/w Mr. Joy Veer i/b Mr. B.P. Pande
APP for Respondent : Mr. S.A. Gaikwad
...

CORAM	**:**	**S. G. CHAPALGAONKAR, J.**
Reserved on	:	December 11, 2023
Decided on	:	December 18, 2023

ORDER :-

1. The applicant seeks regular bail in connection with Crime No.354 of 2023 registered with City Chowk police station, Aurangabad for the offences punishable under sections 406, 409, 420, 465, 467, 468, 471, 477-A, 120-B r/w 34 of the Indian Penal Code.

2. Investigation has been set in motion on the basis of the information given by one Mr. Suresh Panditrao Kakade, District Special Auditor,. Class-I, Co-operative Societies, Aurangabad, who alleges that he was appointed as an Administrator on Ajantha Urban Cooperative Bank Limited, Aurangabad vide order dated 31.8.2023 issued by the Additional Registrar (Administration), Co-operative Societies, Maharashtra State, Pune. He took charge on 31.8.2023 as an

Administrator. He received a confidential letter from Reserve Bank of India, Nagpur for taking legal action as regard to illegalities, irregularities in conduct of the business of Ajantha Urban Co-operative Bank, Limited as per the provisions of Maharashtra Co-operative Societies Act. The letter of Reserve Bank of India dated 28.8.2023 indicates that net worth of the Bank was (-)70.14 crores and CRA was (-)38.30 crores. The amount of Rs.64.60 crores is shown to be disbursed to 36 borrowers based on the bogus fixed deposit certificates. Pertinently, the aforesaid facts have been admitted by the bank in communication dated 23.12.2023 addressed to RBI. A complaint is made to RBI by Ex-employee of the bank pointing out submission of false and fabricated certificates of balances worth Rs.32.81 crores with State Bank of India, Axis Bank and MSC Bank, Aurangabad.

3. Accordingly, informant contends that Chief Executive Officer Shri Pradip Eknath Kulkarni, Chairman Shri Subhash Manakchand Zambad and other Directors and employees of Ajantha Urban Co-operative Bank Limited, Aurangabad conspired together and distributed loans without requisite mortgage, security or pledge in the name of 36 persons during the period from 1.3.2006 to 30.8.2023. It is further alleged that the statutory auditor Mr. Satish Mohare, who was entrusted with the Audit for the period from 2021 to 2022 failed to make reference of 36 forged fixed deposits, in his audit report and failed to report misappropriation and

irregularities of the bank. As such, it is alleged that accused persons caused misappropriation of Rs.97.41.

4. The applicant came to be arrested on 20.11.2023 in pursuance of the aforesaid crime being the Branch Manager of Usmanpura Branch, her prayer for grant of bail has been rejected by the Court of Sessions vide order dated 2.12.2023. Hence, this application.

5. Mr. Rajendra Deshmukh, the learned senior advocate appearing for the applicant would submit that applicant is an innocent person. She has been falsely implicated in the aforesaid crime. He would submit that the applicant is a lady, and Branch Manager posted at Usmanpura branch w.e.f. 16.7.2018. Out of 36 objectionable loan transactions referred in the FIR, only two transactions relates to Usmanpura Branch. Further, subject amount of those transactions is already deposited on 13.3.2023 and 15.3.2023 through RTGS. The loans were sanctioned as per the directions of the Director and CEO of the bank and amount was disbursed. The files relating to aforesaid transactions are seized during the course of the investigation. The applicant is behind the bar from 20.11.2023. She was subjected to PCR till 23.11.2023. Nothing incriminating could be seized from her. Investigation papers nowhere depicts that applicant has derived any advantage out of such transaction. Her further detention would not be necessary.

6. Learned A.P.P. strongly opposes bail application. He would submit that during the course of the investigation it has been revealed that while applicant was discharging her duties as Branch Manager of Usmanpura Branch, two files worth Rs.77 Lakhs were processed. The applicant in her statement contends that as per instructions from the C.E.O Mr. Pradip Kulkarni, she had sanctioned loan without asking for necessary term deposits and KYC compliance. Magnitude of the crime is huge. The applicant was functioning on responsible post. Her complicity in commission of the offence can be observed from the aforesaid circumstances. She could have prevented such illegality and saved public interest. Her failure to do so itself is sufficient to infer her role in offence.

7. Having considered the submissions advanced and on perusal of the investigation papers, it is apparent that FIR discloses serious illegalities relating to banking business of Ajanta Urban Cooperative Bank Ltd. Contents of the FIR depicts two major deficiencies/illegalities. Firstly, there are 36 unsecured loans worth 64.60 crores based on forged fixed deposits. Secondly, false record created depicting deposit of Rs.32.81 crores with SBI, Axis Bank and MSC Bank, Aurangabad and fabricated certificates to that effect were presented during audit and statutory audit of the bank.

8. So far as role of applicant is concerned, it is the case of the prosecution that while applicant was working as a Branch Manager at Usmanpura branch, two loan files were

processed. The loan account of 2487 depicts that loan of R.77.00 Lakhs was sanctioned on 6.8.2020 in the name of Smt. Sadhana Subhash Agrawal and similar amount is sanctioned in loan account no.2488 dated 7.8.2020 in the name of Subhash Agrawal. However, no FDR's towards security of the loan were made part of the record. Statement of applicant recorded during course of the investigation depicts that applicant sanctioned such loans as per the instructions of C.E.O Mr. Pradip Kulkarni and amounts have been received by the two persons deputed by Chairman of the Bank Mr. Subhash Zambad. Pertinently, on 13.3.2023 and 15.3.2023 the amounts have been deposited and fixed deposits are made.

9. Prima facie consideration of the aforesaid material on record would show that the applicant is not beneficiary of said transaction. However, she being subordinate officer, carried forward instructions of C.E.O. and Chairman of the Bank. It is true that when she was on the responsible post like Branch Manager and custodian of the public funds, she could have been more vigilant in discharge of her duties. However, prima facie, that itself would not be sufficient to hold her conspiracy in commission of offence. There is nothing on record to infer her criminal intent or benefit derived by her out of such transactions. Now a days, it is experienced that employees in private banks and institutions are made to follow instructions of their masters and it is beyond their capability to raise protest. Therefore, in every case, it cannot be inferred that employee in-charge of business was conspirator in absence

of direct evidence depicting pecuniary or other advantages gained by such employee out of objectionable transactions. It would be pre-mature at this stage to draw any inference while considering her plea for grant of bail in absence of clinching material depicting her involvement in conspiracy, further detention need not be continued. Investigation papers shows that necessary documents pertaining to branch of the applicant are already possessed by investigating machinery. She has been interogated to extract her role. The applicant is behind the bar approximately for one month. As such, case is made out for grant of bail subject to certain conditions. The observations made herein above are prima facie in nature and based on the material placed before this Court and only for the purpose of deciding this application only. Hence, the following order.

ORDER

i. Bail Application is hereby allowed.

ii. The applicant - Deepali W/o Devendra Kulkarni be released on bail in connection with Crime No.354 of 2023 registered with City Chowk police station, Aurangabad City, District Aurangabad for the offences punishable under sections 406, 409, 420, 465, 467, 468, 471, 477-A, 120-B r/w 34 of the Indian Penal Code on her furnishing P.B. & S.B. of Rs.50,000/- (Rs. Fifty Thousand) on the following conditions :-

a] The applicant shall not tamper the prosecution evidence.

b] The applicant shall attend the concerned police station once in a week i.e. on every **Saturday** between 10 am to 2 pm till filing of the charge-sheet.

c] The applicant shall co-operative with the investigating agency.

iii. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR)
JUDGE

...

aaa/-