IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 870 OF 2023

Mr. Lal Ghanshani ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Karan Singh Rajput,Mr. Fauzan Shaikh for the Applicant.
Mr. S.V.Gavand, APP for the State.

CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 23rd MARCH, 2023.

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No. 240 of 2019 registered at MRA Marg Police Station, Mumbai for offences under Section 465, 468, 403, 409, 418, 420 r/w. 120-B of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, 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 Applicant was the Chairman of the Needs of Life Co-operative Bank Ltd., Mumbai, till the year 2018. Pursuant to the FIR dated 19.06.2019, crime No. 239 of 2016 was registered against the

Applicant and others before the MRA Marg Police Station for similar offences. The said FIR was based on the audit report dated 16.04.2015. The crime was registered against the Applicant for illegalities and irregularities committed by him for the period between 2009 to 2016. The Applicant had applied for anticipatory bail. The District Court, by Order dated 29.06.2018 had accepted the statement of the Applicant and allowed him to deposit Rs.2 Crores in the Registry of the Court and had allowed the application for pre-arrest bail in Crime No. 239 of 2016.

4. It appears that an Administrator was appointed on 22.03.2018 and fresh audit was conducted to review the status/ affairs between 2016 to 2018. It is stated that the second audit report was submitted on 17.09.2018. During the intervening period, the investigation in the previous FIR No.239 of 2016 was completed and the chargesheet came to be filed on 2.1.2019. The subsequent FIR was lodged on 20.09.2019 allegedly on the basis of the second audit report.

5. A perusal of the second audit report reveals that the second audit report also covers the alleged irregularities and illegalities during the period covered by the previous audit report. The FIR and other material on record prima facie indicates that the subsequent FIR is also in respect of the same incident i.e. the alleged illegalities and irregularities which are already covered by FIR dated 19.09.2016 in respect of which

chargesheet is already filed. The Applicant has filed Writ Petition No. 652 of 2021 for quashing the subsequent FIR. The Division Bench of this Court by Order dated 16.02.2021 has directed the Investigating Agency not to file the chargesheet. The learned Judge has held that the issue is subjudiced before the High Court, and has refrained from giving any findings on merits. Suffice it to say that the learned Addl. Sessions Judge could not have dismissed the application solely on the basis of the pendency of Criminal Application No. 622 of 2021. The parameters for quashing the FIR and grant of anticipatory bail are entirely different. The learned Judge was therefore required to consider whether the allegations leveled against the Applicant in the subsequent FIR prima facie disclose any offence which was not covered by the previous FIR and whether the presence of the Applicant is required for custodial interrogation. The impugned order therefore cannot be sustained.

6. As noted above, the allegations leveled in the subsequent FIR are covered by the previous FIR in respect of which chargesheet has been filed. In such circumstances, this is not a case which would justify custodial interrogation. Hence the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in Crime No.240 of 2019 registered at MRA Marg Police Station, Mumbai, the Applicant be released on bail on furnishing bail bond of Rs.40,000/- (Rupees FortyThousand Only) with one or two sureties in the like amount, to the satisfaction of the Investigation Officer.

(ii) The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer .

(iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile/contact details, and/or change of residence or mobile/contact details from time to time.

(iv) The Applicant shall not interfere with the Complainant and the other witnesses, or tamper with the evidence in any manner.

(ANUJA PRABHUDESSAI, J.)