IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.80 OF 2021
WITH
INTERIM APPLICATION NO.145 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.80 OF 2021

Shefali Raut ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. R.B. Mokashi with Mr. Raj Raut, Mohaneed Loher i/b. Mr. A.B. Seth for the Applicant.
Mr. Zakir Hussain with Mr. Saeed Khan i/b. M/s. H & M Legal Associates for the Intervenor.
Mr. S.V. Gavand, APP for Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 5th APRIL, 2023.

P. C. :-

1. This is an application for pre-arrest bail filed by the Applicant apprehending her arrest in C.R. No.715 of 2020 registered with M.H.B. colony Police Station, Mumbai for the offences punishable under Sections 420, 465, 467, 468 and 471 r/w 34 of the IPC.

2. Heard Mr. Mokashi, learned counsel for the Applicant, Mr. Zakir Hussain learned counsel for the Intervenor and Mr. S.V. Gavand, learned APP for the Respondent -State. I have perused the records and

considered the submissions advanced by the learned counsel for the respective parties.

3. The Applicant herein was a Branch Manager of the ICICI Bank, IC Colony Branch. Mr. Anshul Nishit, Regional Head of ICICI Bank lodged the FIR dated 26/10/2020 against the Applicant, alleging that she cheated the customers and misappropriated an amount of Rs.18, 94,47,740/- forging, fabricating and making false documents, viz. FD receipts, TDS certificates, statement of accounts etc.

4. It is alleged that taking advantage of her position as a Branch Manager the Applicant advised several customers to invest the money in the Fixed Deposit. It is stated that several customers invested the money and the Applicant issued forged and fabricated Fixed Deposit Receipts. The money invested by the customers was diverted into the personal account of the Applicant and into the accounts of her relatives. It is stated that she had also given gold loan by issuing forged and fabricated gold loan certificates for total 1211 gms of gold. It is stated that whenever the customers approached the Applicant with a request to encash the FDRs, she pursuaded them to renew the same. In the event, the customers insisted on encashing the FDRs, the

Applicant paid the money by diverting money from the accounts of the other customers. The Applicant is also alleged to have prepared forged and fabricated statement of accounts on excel sheet and posted the same to the customers. It is stated that subsequently when some of the customers realised that the money was not invested and they were not being paid the money and wished to complain against her to the higher officer, the Applicant gave them a phone number stating it to be of the higher officer. The second number given to the customer was in fact of the Applicant and she herself would speak to the customers pretending to be the higher officer and convinced the customers that she would take appropriate action against the concerned officer.

5. The fraud committed by the Applicant came to the notice of the Bank when the customers-Viren Negi and Sunil Negi approached the bank with the FDRs for an amount of Rs.65 lakhs. It was noticed that the FDRs were forged and fabricated. Further it was also reported that an amount of Rs.3.6 crores from the account of Negi was misappropriated. It was also revealed that the Applicant had purchased Mercedez Benz worth Rs.65 lakhs from Auto Hanger by diverting the money from the account of the customers to the account of Auto Hanger. The total amount misappropriated by the Applicant

was Rs.18,94,47,740/-. It is stated that after the fraud came to the light, the Applicant returned an amount of Rs.11,86,49,171/- to some of the customers. Even after repayment of the said amount, an amount of Rs.7,07,98,569/- is yet to be recovered from the Applicant.

6. The records prima facie indicate that the Applicant, who was serving as a Branch Manager of ICICI Bank, IC colony Branch, dishonestly induced the customers to deposit money into the accounts with an assurance that same would be invested in FDRs. She diverted the money deposited by the customers to her account and the accounts of her relatives. She has also diverted an amount of Rs.65 lakhs into the account of Auto Hanger to purchase a Mercedes Benz in her own name. The Applicant has cheated the customers by creating false documents such as Fixed Deposit Receipts, gold loan certificate, fake TDS certificates, etc. The Applicant as a Branch Manager was bound to safeguard the interest of customers as well as of the bank, but the records prima facie reveal that she has misappropriated over 18 crores, hard earned money of the the depositors /customers and also caused financial loss as well as loss of reputation to the Bank.

7. It is true that by order dated 24/12/2020 the Vacation

Bench of this Court had granted interim bail to the Applicant and the interim protection has been extended from time to time. A perusal of the said order reveals that the interim protections was granted for the reason that the Investigating Officer was not present with relevant documents. This Court had also considered the fact that the Applicant is a woman and that she had agreed to co-operate with investigation. The case was thereafter adjourned from time to time either at the request of the Applicant, learned APP or for want of time. Be that as it may, the Applicant cannot seek pre-arrest bail on merits solely on the ground that she has been enjoying interim protection since long, particularly when the allegations against the Applicant are serious, and the money trail is yet to be verified and the siphoned off money is yet to be recovered. In cases of such nature, interrogation with protective order will only be a ritualistic formality. In the facts and circumstances of the case, custodial interrogation is eminently necessary.

8. It is also pertinent to note that the matter had come up before the Court (Coram: Bharati Dangre, J.) on 28/09/2022 and a statement of the Applicant came to be recorded that the Applicant had admitted having received certain amounts and that she had given details of the property, which would fetch a sum of Rs.2,43,50,000/-.

The Applicant had made a statement that she will make further attempt to part with the said amount to satisfy the claim.

9. The Applicant had filed an affidavit dated 10/03/2021 wherein she had made a statement that she has various movable and immovable property in her name and in the name of her husband, details of which are at Exhibit-C. She had stated that some of the properties are barred from being sold under prohibitive orders and that the indulgence of the Court would be required to allow her to dispose of the said property. She had given details of the flats and other accounts in her name and in the name of her husband and child. She had made a statement that she would not sell the properties at under market value or in cash and would deposit the entire sale proceeds with bank.

10. It is also pertinent to note that order dated 20/10/2022 records that the Applicant and her husband had thereafter filed an affidavit stating that the said flats could be sold to clear the liability without prejudice to their defence. The Applicant had also made a statement that the flats could not be sold to the embargo created by the investigating agency. Learned APP states that the flats referred in

Exhibit-C are not attached and only a letter was addressed to the Society not to permit sale without notice to the Investigating Officer. Hence, the statement made in the affidavit that the properties are barred from being sold by a prohibitive order, is an incorrect statement. Learned APP further states that the Applicant had not approached the Investigating Officer with a proposal to sell the flats and or to give no objection to the society for sale of the said flats. When confronted, learned counsel for the Applicant states that the flats could not be sold as no buyer has come forward to purchase the same. The explanation is far from being satisfactory.

11. The Applicant has not seriously disputed having misappropriated the amount. The Applicant had only sought time to repay the amount to the Bank/customers. Interim relief was extended from time to time in view of the assurances given by the Applicant. Despite such assurances given in the affidavit, filed way back in the year 2021, the Applicant has not paid any amount to the Bank. The aforesaid conduct of the Applicant would also not justify exercise of discretionary relief in her favour.

12. Considering the nature of the accusations, the gravity of the

offences and the prima facie material in support thereof in my considered view this is not a fit case to exercise discretion under Section 438 of the Cr.P.C.

13. Under the circumstances, the application is dismissed.

14. Interim application stands disposed of.

15. Learned counsel for the Applicant requests to extend the interim relief. Same is rejected.

(SMT. ANUJA PRABHUDESSAI, J.)

MEGHA S PARAB Digitally signed by MEGHA S PARAB Date: 2023.04.06 19:27:17 +0530