IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2075 OF 2023

KISHOR RAMCHANDRA SHINGARE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Rajkumar Chaphekar and Adv. Murugan P. for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

API D. Patil, Malad Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 12, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail by the applicant in connection with C.R. No.37 of 2019 dated 21/01/2019 registered with Dindoshi Police Station for the offence punishable under Sections 417, 420, 465, 467, 468, 471, 472 read with 34 of the Indian Penal Code, 1860.

3. Accused No.2- Umesh Balu Kodere who was working as a Manager of the concerned bank has been enlarged on bail by this Court vide order dated 23/02/2023 passed in Bail Application No. 2889 of 2022. For ease of reference, the order dated 23/02/2023 is reproduced as follows:

> "1. Heard learned counsel for the applicant and learned APP for the State.
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> 2. This is an application for bail by the applicant-Umesh Balu Kodere in connection with C.R. No.37 of 2019 dated 21/01/2019 registered with Dindoshi Police Station for the offence punishable under Sections 417, 420, 465, 467, 468, 471, 472 read with 34 of the Indian Penal Code, 1860.
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> 3. The FIR is filed on 21/01/2019 by the employee of the Sahebrao Deshmukh Co-operative Bank Limited (hereafter "SDC Bank", for short). The applicant was working as the Manager. The allegation is that accused No.1 had approached the SDC Bank with letters of credit in respect of IndusInd Bank and obtained loan of Rs.2,75,00,000/-. The applicant being the Manager was under a duty to properly scrutinize and verify the letters of credit. It appears that the applicant was derelict in his duties and relied upon the inputs of the employees of the bank and processed the loan application on the basis of such letters of credit. It later transpired that the letters of credit are bogus and manipulated. The IndusInd Bank informed that they never issued such letters of credit.
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> 4. From out of an amount of Rs.2,75,00,000/-, an amount of Rs.2,73,00,000/- has been returned by the accused No.1. According to the SDC Bank this would cover the major part of the principal component and interest amount to the tune of Rs.1,37,00,000/- is due and payable to the bank as per their calculation.
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> 5. The applicant is not the beneficiary. From the materials it appears that the applicant has relied

> upon the input of the staff of the bank while sanctioning the loan. The allegations are mainly against the accused No.3, who is the Chief Executive Officer of the bank and the accused No.1 to whom the amount was actually paid. Considering that the substantial amount has been repaid and the applicant is not the beneficiary, the applicant is in custody since 09/09/2021 almost for a period of 1 year and 5 months, the applicant can be released on bail. There are no criminal antecedents reported against the applicant. The investigation is complete and the charge-sheet has been filed."

4. The applicant was working as a Chief Executive Officer. Learned APP while opposing the application submitted that the applicant committed the offence with a view to favouring accused No.1. It is submitted by the learned APP that to enable accused No.1 to avail the loan, the applicant has purposely not followed the procedure laid down for sanction of the loan. It is further submitted that the applicant has exceeded his powers while granting undue favour to the accused No.1. Learned APP further submitted that there is one criminal antecedent of a similar nature pertaining to the same bank registered against the applicant.

5. There is nothing on record to indicate that the applicant is the beneficiary. The Manager i.e. accused No.2

was enlarged on bail by the aforesaid order. The applicant was arrested on 02/09/2021 and is now in custody for more than 2 years and 3 months. Any further custody of the applicant will only be by way of a pre-trial punishment. So far as the criminal antecedent is concerned, the applicant has been granted bail. In my opinion, considering the length of the applicant's custody as an undertrial, the criminal antecedent by itself should not be the circumstance to deprive the applicant the facility of bail in the present case. Considering the observations made in the order dated 23/02/2023 coupled with the long incarceration of the applicant, I am inclined to enlarge the applicant on bail. Hence, the following order :-

O R D E R

(a) The application is allowed.

(b) The applicant- Kishor Ramchandra Shingare in connection with C.R. No.37 of 2019 registered with Dindoshi Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Dindoshi police station as and when called.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)