IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2453 OF 2023

GIRISH JAGDISH AGARWAL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

WITH
INTERIM APPLICATION NO.3301 OF 2023
IN
BAIL APPLICATION NO.2453 OF 2023

AMMEET KAMAL AGARWAL ..APPLICANT

IN THE MATTER BETWEEN

GIRISH JAGDISH AGARWAL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Subhash Jha a/w Adv. Linisha Seth i/b. Law Global for the applicant.
Ms. Rutuja Ambekar, APP for the State.
Adv. P. Ranjan i/b. M/s. Halai and Company for the intevener.
API Sandeep Shinde, Sahar Police Station.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 14, 2023.

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 408, 409, 477-A, 420, 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 25.04.2023 vide First Information Report (FIR) No.207 of 2023 with Sahar Police Station.

3. There are in all eleven accused. The applicant is the accused No.2. The FIR was registered on 25.04.2023 by Ammeet Kamal Agarwal who is the Executive Director of Supreme Transport Organisation Private Limited. The applicant and ten others have been arraigned as accused in connection with FIR No.207 of 2023 registered with Sahar Police Station. The allegation is that between the period from 27.09.2019 and 04.09.2020 the applicant and ten others who have been named in the FIR, in furtherance of a criminal conspiracy, siphoned of Rs.6,27,36,180/- and thereby committed an offence punishable under the aforesaid provisions of the IPC.

4. The applicant herein viz. Mr. Girish Jagdish Agarwal was also a Director/Shareholder of Supreme Transport Organisation Private Limited. The applicant is the cousin brother of the intervener – *de facto* complainant. Due to mismanagement of the Company, Axis Bank Limited filed proceedings against Supreme Transport Organisation Private Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. By an order dated 08.09.2021 the NCLT appointed Interim Resolution Professional (IRP) and the board of the company has been suspended.

5. By an order dated 29.09.2021 the NCLT appointed a Resolution Professional in respect of Sangeeta Aviation Services Private Limited to carry out further Corporate Insolvency Resolution Process. The applicant was arrested on 15.06.2023.

6. The applicant approached this Court for bail prior to filing of the charge-sheet as the applicant's bail application was rejected by the trial Court on 19.07.2023. During the pendency of this application and before the application could be heard on merits, the charge-sheet came to be filed. It is one of the objection of learned APP and learned counsel appearing for the intervener – *de facto* complainant that now that the charge-sheet has been filed, the proper course for the applicant is to approach the trial Court for bail.

7. Mr. Jha, learned counsel for the applicant submitted that in the present facts, having regard to the nature of the accusations, now that the charge-sheet has been filed, further custody of the applicant is not required. It is one of the contention of Mr. Jha that in the present case no notice under Section 41-A of the Code of Criminal Procedure was issued.

8. In the present facts, I felt appropriate to hear the application for bail having regard to the nature of accusations.

9. Learned APP as well as learned counsel for the intervener - *de facto* complainant opposed the application for bail. It is submitted that the accusations are serious as the applicant in his capacity as a Director has committed misappropriation of funds. My attention is invited to the accusations in the FIR. In the FIR so far as the present applicant is concerned, it has been alleged that the present applicant had transferred a sum of Rs.11,05,072/- from the account of Supreme Transport Organisation Private Limited, a sum of Rs.13,93,250/- from the account of Sangeeta Aviation Services Private Limited and further a sum of Rs.8,00,000/- from the account of the *de facto* complainant. The total amount transferred was Rs.32,98,332/-. It is the accusation that the amounts which belonged to the company which should have been credited to the company's account have straight away gone into the account of the present applicant.

10. Mr. Jha, learned counsel made an attempt to justify the fact that the said transfer is a result of legitimate transactions. Prima facie it appears that the amounts have been transferred through banking channels. Suffice it to observe that in respect of the transaction from 22.06.2018 to 06.07.2022 the FIR has been lodged only on 25.04.2023. The applicant as well as the de facto complainants were the Directors of the company which are now the subject matter of Insolvency proceedings. The relationship between the parties are strained. Furthermore, the investigation is complete and the charge-sheet has been filed. In this view of the matter further custody of the applicant is not necessary. The applicant will face the consequences of the trial. The applicant does not appear to be a flight risk. Hence, the following order :-

O R D E R

(a) The application is allowed.

(b) The applicant-Girish Jagdish Agarwal in connection with FIR No.207 of 2023 registered with Sahar Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs.1,00,000/- for a period of six weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Sahar Police Station once in two months i.e. on first Monday of every alternate month between 11.00 a.m. and 1.00 p.m. commencing from October 2023.

(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 unless exempted.

11. The application is disposed of.

12. Interim application is also disposed of.

(M. S. KARNIK, J.)