IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2606 OF 2023

Arun Ramchandra Shinde ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Manan Sanghai with Mr. Parth Singh i/by Mr. Prathamesh Shinde, for Applicant.
Mr. R.M.Pethe, APP, for State.
Mr. Murlidhar Khadilkar with Mr. Aakash Joshi, for Intervener.
Mr. Rohidas Omase, PSI, Samatanagar Police Station, present.

CORAM: N.J.JAMADAR, J.

DATE : 13 SEPTEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.

2. This is an application for pre-arrest bail in connection with C.R.No.531 of 2023 registered with Samata Nagar Police Station for the offences punishable under Sections 420, 465, 467, 468 471 read with Section 34 of the Indian Penal Code, 1860.

3. The Applicant is working as a Clerk with Goregaon Branch of Shamrao Vitthal Co-op. Bank Ltd. Co-accused Shridhar Parab made an endeavour to obtain an overdraft against the forged LIC policies by making an application to the Goregaon Branch of the said Bank. However, the loan application was rejected.

4. Subsequently, it is alleged the said co-accused Shridhar Parab along with Sanjay Surve tendered forged LIC documents at Thakur Village Branch of the said Bank in conspiracy with the applicant and Ajit Rao, Cluster Manager of the said Bank,

deceived the bank officers to sanction the loan and withdrawn an amount of Rs.29,90,000/- from the overdraft account.

5. In the process, the accused tendered and used forged documents as genuine, made a farce of the verification of LIC documents as genuine in the Ambarnath Branch of LIC and sent a false and fabricated communication and email confirming the assignment of the policies in favour of the said Bank. The investigation by the vigilance officer of the bank further revealed that the applicant and co-accused Ajit Rao were paid a sum of Rs.4 lakhs, out of which an amount of Rs.45,000/- was credited to the account of the applicant online.

6. Apprehending arrest, the applicant approached Court of Session. The learned Additional Sessions Judge declined to exercise the discretion in favour of the Applicant. Hence, this application for pre-arrest bail.

7. The learned Counsel for the Applicant submitted that the only role attributed to the applicant is that of referring the co-accused Shridhar Parab to Thakur Village Branch of the Bank to avail the loan. The applicant was nowhere a part of the conspiracy to avail the loan by tendering the forged documents. Nor there are allegations in the FIR to the effect that the applicant had either made the forged documents or represented the officers at Thakur Village Branch to advance the loan on the strength of allegedly forged documents.

8. The learned Counsel for the Applicant fairly submitted that there is

indeed material to show that a sum of Rs.45,000/- came to be credited to the account of the applicant on 5 June 2023 by the co-accused Sanjay Surve. The said fact, however, according to the learned Counsel for the Applicant, would not make the applicant a confederate in the alleged offences of cheating and forgery.

9. The learned APP stoutly resisted the prayer for pre-arrest bail. It was submitted that apart from the transfer of the said amount of Rs.45,000/- in the account of the applicant, in close proximity to the disbursal of the loan to co-accused Shridhar Parab, there is material to show that the applicant was in constant touch with the co-accused Shridhar Parab and Sanjay Surve and participated in the operations to dupe the bank and played a major role in the offences. The fact that the applicant was working at a different Branch and facilitated various actions to deceive another Branch of the Bank, was pressed into service to demonstrate that it was not an innocent referral, as was sought to be urged on behalf of the applicant.

10. I have carefully considered the material on record. Prima facie, the applicant had a wrongful gain of Rs.45,000/-, in the least, immediately after the disbursal of the loan amount to Shridhar Parab. Even the applicant did not endeavour to dispute the said fact. The explanation sought to be offered on behalf of the applicant that the said amount was paid to the applicant by Sanjay Surve, co-accused, only for referral, at this stage, does not carry much conviction. On the contrary, at this nascent stage of investigation, the said payment constitutes a strong prima facie

case against the applicant, who, otherwise, had no business to be in touch with the customers who allegedly duped the bank.

11. To add to this, there appears to be material to show that the applicant had conversation with the co-accused, and in the conservation which the co-accused had, inter se, there was reference to the role of and advice given by, the applicant. These circumstances, at this stage, are required to be considered in the light of the gravity of the accusation. The accused allegedly not only tendered the forged documents, but made the Bank officers to visit Ambernath Branch of LIC, created a farce of verification of the genuineness of those documents by an impersonated officer and also got false and fabricated communication of the assignment of the policies in the name of the Bank addressed to the Bank.

12. In the backdrop of the aforesaid nature of the allegations and prima facie complicity of the applicant therein, the custodial interrogation of the applicant is indispensable to unearth the fraud in all its facets and the identity of the persons who were privy to the crime and also ascertain the money trail.

13. The learned Counsel for the Applicant would urge that the co-accused Ajit Rao against whom there are more grave allegations, was ordered to be released on pre-arrest bail by the learned Additional Sessions Judge. A *fortiorari* the applicant deserves the same dispensation.

14. I find it difficult to accede to this submission. I have perused the order

passed by the learned Additional Sessions Judge qua Ajit Rao. The learned Additional Sessions Judge found that Ajit Rao had in fact alerted the Manager of the Bank about the possible fraud in availing loan on the basis of the forged policies and there was no material to show that any amount was paid to Ajit Rao. In contrast, the credit of the amount of Rs.45,000/- to the account of the applicant weighed with the learned Additional Sessions Judge in declining to exercise the discretion in favour of the applicant. This approach of the learned Additional Sessions Judge cannot be faulted at.

15. Resultantly, the applicant does not deserve exercise of the discretion.

16. Hence, the following order :

ORDER

(i) The Application stands rejected.

(ii) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)