IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4235 OF 2021

Rajiv Rajendra Modi ...Applicant

Versus

The State of Maharashtra through Sr.
PI-EOW-Unit 3, G.C.I. ...Respondent

…

Mr. Anil Lulla for the Applicant.
Ms A.A. Takalkar, APP for the Respondent -State.
Ms Aarti Deodhar i/b. M/s. SSB Legal and Advisory for the Intervenor.
Mr. Anil Dhage, API-EOW, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 19th JULY, 2023.

P. C. :-

1. This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in C.C. No.93/PW/2021 pending on the file of learned Judge, 47th Court, Esplanade, Greater Bombay. The aforesaid case arises from C.R. No.12 of 2017 registered with EOW-GC1, for the offences punishable under Sections 120B, 406, 420, 465, 467, 468 and 471 of the IPC.

2. Mr. Anil Lulla, learned counsel for the Applicant states that the co-accused -Ajay Shyamkumar and Sanjay Jain have already been

granted bail. He submits that the Applicant, against whom similar allegations are made, is entitled for bail on the ground of parity. He submits that the charge-sheet has been filed and that the presence of the Applicant is no longer required in custody.

3. Ms Aarti Deodhar, learned counsel for the Intervenor and Ms A.A. Takalkar, learned APP for the Respondent -State submit that the Applicant is the main culprit. He is involved not only in defrauding the Complainant but several other persons. It is submitted that the role attributed to the co-accused, who have been released on bail is entirely different and hence, the Applicant is not entitled for bail on the ground of parity.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The aforesaid crime was registered pursuant to the FIR lodged by Jayesh Ghansham Patel. The facts narrated in the FIR prima facie reveal that the First Informant was in financial crisis and he was intending to sell his residential premises. His friend, Dharmen Joshi dissuaded him from selling the residential premises and introduced

him to the co-accused Ajay Kumar. The co-accused advised the First Informant that he could tide over the financial crisis by being a partner in the partnership firm of the Applicant and his father viz. Orbit Group, engaged in export import business. Accordingly, the co-accused introduced the First Informant to the Applicant and his father. The Applicant assured to help the First Informant and instructed him to handover the title documents of his residential premises.

6. The First Informant subsequently learnt that the Applicant misused the documents and availed loan of Rs.9,50,00,000/-from Oriental Bank of Commerce, Nariman Point Branch, by forging signatures of his parents. The said amount was credited in the account of Orbit Products Company. Later he availed loan in the name of the First Informant by forging his signature. It is stated that when the First Informant decided to lodge a complaint, the Applicant made him a director in M/s. Aaram Trading Pvt. Ltd. Subsequently, the First Informant learnt that the Applicant had availed loan of Rs.8 crores in his name, which was credited in the account of Aaram Trading Pvt. Ltd.

7. It is further stated that the Applicant has also cheated three

other persons in the same manner. The Applicant has availed loan of Rs.9 crores from PNB Bank in the name of Dharmen Joshi. He availed loan of Rs.6 crores in the name of Janak Bhimani and Rs. 9 crores in the name of Ms Savita Punja. It is stated that a crime is also registered against the General Manager and the other officials of the Punjab National Bank for entering into the criminal conspiracy with the Applicant to defraud and cheat the Bank as well as several other victims. Mr. Goyal, General Manager of the Bank is stated to be absconding.

8. The records thus indicate that the Applicant is the main conspirator involved in the said crime. As far as ground of parity is concerned, the co-accused Sajany was a Chartered Accountant. The Trial Court has observed that he is not the director of the Company and that no specific role has been attributed to him. He had neither operated the loan account nor misappropriated the amount. Similarly, the co-accused Ajay was only involved in introducing the First Informant to the Applicant. He has been granted bail considering the fact that he was not a beneficiary and that no allegations of forgery or cheating are attributed to him.

9. Considering the above facts and circumstances, the Applicant is not entitled for bail on the ground of parity. As noted above, the Applicant is the main conspirator, who is involved in availing loan in the names of several persons by forging their signatures. He has misappropriated the public money. Considering the nature of the accusations as against this Applicant, in my considered view this would not be a fit case to exercise discretion under Section 439 of the Cr.P.C. in favour of the Applicant. Hence, the application is dismissed.

10. The interim application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

MEGHA SHREEDHAR PARAB

Digitally signed by MEGHA SHREEDHAR PARAB
Date: 2023.07.25 13:18:45 +0530