IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4496 OF 2022

S. Vishwanathan s/o. V. Subramanian & Anr. ..Applicant.
Versus
The Central Bureau of Investigation & Anr. ..Respondents

WITH
INTERIM APPLICATION NO. 4497 OF 2022

S. Srinivasan s/o. V. Subramanian & Anr. ..Applicant.
Versus
The Central Bureau of Investigation & Anr. ..Respondents

IN
CRIMINAL APPEAL NO. 1291 OF 2022

Mr. V. N. Shingnapurkar i/b. H. N. Associates for Applicant in both I.As.
Mr. Harsh Dedhia i/b. H. S. Venegavkar for C.B.I./Respondent No.1.
Mr. S. R. Agarkar, APP for State/Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 3rd JANUARY 2023

PC :

1. A common order is passed in both these applications because they arise out of the same Appeal. The Applicants were the original Accused Nos.2 and 3 before the trial court. The Applicant S. Vishwanathan was the accused No.2 and the applicant S. Srinivasan was the original accused No.3 before the learned

Special Judge, Greater Mumbai in C.B.I. Special Case No.81 of 2006. At the conclusion of the trial, both the applicants were convicted for commission of offence punishable under sections 120B and Section 420 r/w. Section 120B of the I.P.C. The major substantive sentence imposed on them was for two years; besides imposition of fine.

2. Heard Shri. Shingnapurkar, learned counsel for the Applicants, Shri. Dedhia, learned counsel for the Respondent No.1 and Shri. Agarkar, learned APP for the State-Respondent No.2.

3. The prosecution case is that, both the applicants were having their business. They conspired with the Branch Manager of Bank of India, Wadala (E) branch Shri. Dilip Kiran who was the accused No.1. Between March 2002 to September 2002 both the applicants enjoyed credit facilities dishonestly; thereby causing loss to the bank to the tune of more than Rs.40 lakhs.

4. Learned counsel for the applicants submitted that the applicants were running a business. Suddenly, the bank stopped the credit facilities and, therefore, they suffered losses in the

business and, therefore, some amount remained to be paid. However, these applicants have repaid most of the amounts which they had taken as credit facilities and by way of loan. There was no intention to cheat the bank. Only due to loss in the business, the amount remained to be paid. In any case, the bank has recovered the entire amount through the properties of the applicants and the bank has not suffered financially. He submitted that, all the relevant documents which were produced on record by the applicants were not taken into consideration by the learned trial Judge. There was no forged document. The record furnished was in order. The applicants were on bail during trial. They have not misused that liberty. Even after their conviction they were granted bail U/s.389 of the Cr.p.c. by the trial Court.

5. Learned counsel for the C.B.I. opposed these applications on merit. However, he conceded that the sentence imposed is short.

6. I have considered these submissions. The issues raised by learned counsel for the Applicants can be considered at the final

hearing stage of the Appeal. The Appeal is not likely to be decided within a short span of two years. As submitted by learned counsel for the applicants, the Applicant were on bail during trial and even after their conviction they were granted bail U/s.389 of the Cr.p.c. The offence is from the year 2002. More than 20 years have passed. There are no allegation of commission of any other offence of similar nature. Considering all these aspects, the applicants can be granted bail pending final disposal of their Appeal.

7. Hence, the following order:

ORDER

i) During pendency and final disposal of Criminal Appeal No.1291 of 2022, both the Applicants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30000/- each with one or two sureties each in the like amount.

ii) Both the Applications are disposed of.

(SARANG V. KOTWAL, J.)