2024:BHC-AUG:11183

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 778 OF 2024

Pradip Eknath Kulkarni ….Applicant

VERSUS

The State Of Maharashtra And Another …..Respondents

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Mr. A.M. Karad, Advocate for Applicant
Mr. B.B. Bhise, APP for respondents
Mr. V.S. Tanwade, Advocate for informant

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 19th JUNE, 2024

ORDER :

1. This is second application filed by applicant seeking anticipatory bail in C.R. No. 354 of 2023, registered with City Chowk Police Station, Dist. Aurangabad, for offences punishable under sections 406, 409, 420, 465, 467, 468, 471, 477-A r/w 34 of the Indian Penal Code.

2. Anticipatory Bail Application No. 7/2024 was argued on merits at length and when this Court was not inclined to grant relief, applicant sought permission to withdraw the application, which was granted and application was dismissed as withdrawn on 04.04.2024.

3. Learned advocate for applicant submits that

unsecured loan to the extent of Rs. 65 Crore, which is allegedly the part of misappropriated amount, is deposited in the bank in cash. The complaint against applicant is concocted, false and *malafide*. Considering the age of applicant and his wife's ailment and the fact that applicant's statement is recorded by the investigating officer and at that time applicant was not arrested, custodial interrogation of applicant is not necessary. Since amount of Rs. 65 Crore towards unsecured loans is deposited, this is change in circumstance, co-accused in the crime were arrested and are released on bail. Hence, applicant may be granted protection.

4. Learned APP vehemently opposed the application. He submits that applicant has not co-operated in the investigation. Some of the forged loan documents and FDs are still with the applicant. Applicant being Chief Executive Officer of the bank has played major role in the present crime. His custody is necessary for effective investigation.

5. Learned advocate for informant submits that total misappropriated amount is Rs. 97.41 Crore as per FIR. Applicant has played active role in the crime and hence he does not deserve discretionery relief of anticipatory bail.

6. Applicant being Chief Executive Officer of the said bank was at the helm of affairs and it is revealed during the investigation that applicant has played major role in the present crime. Statements of employees of the bank disclosed that applicant has prepared false loan accounts and forged loan documents and FDs.

Applicant on 23.12.2022 addressed a letter to Manager, Department of Supervision, Reserve Bank of India, Nagpur, admitting that during RBI audit to match the underlying security against the outstanding loan against FD (LAFD), the bank debited Rs. 66.67 Crore from Sundry Creditors account on three occasions viz December, 01, 13 and 14, 2022 and credited the same amount by creating new artificial FDs, without actual realization of the amount. Consequently, GL head 'Sundry Creditors' was having balance of Rs. (-)66.67 Crore and deposit amount was inflated to that extent. The GL was used to inflate deposit enabling the creation of FD for unsecured loan already disbursed. He has further admitted that interest on the loan against FD was booked on accrual basis and interest income was inflated without any actual recovery from the borrower. It is pertinent to note here that the amount of Rs. 65 Crore was deposited in cash, but it is not clear as to who has deposited the said amount.

7. It appears that out of 36 loan accounts against FD, documents of 22 accounts are seized by the investigating officer. According to investigating officer 14 forged fixed deposit receipts and loan documents are still with the applicant, which he is avoiding to produce. As per the statement of co-accused Chetan Gadiya remaining 14 files of loan accounts are with the applicant. The same are required to be seized from the applicant. Applicant attended the police station and gave initial information, with an assurance to appear on the next date, but he failed to appear on the next date. He then approached Court by filing anticipatory bail application. Applicant has withdrawn his application, as this Court was not inclined to grant relief. In this view of the matter, there is no merit in the contetion of applicant that he has co-operated in the investigation and his statement is recorded and hence, his custodial interrogation is not necessary.

8. It is also revealed in the investigation that though applicant's bank had no balance in its accounts in other banks, applicant has prepared a forged balance certificate showing that said bank has balance of Rs. 32.81 Crore in its bank account and presented the same during inspection of Reserve Bank of India.

On verification, said balance certificate was found to be false and forged. On the say of applicant a false balance certificate showing that said bank has balance of 12.37 Crore in State Bank of India, Town Center Branch (when in fact only an amount of Rs. 90,989/- was balance in the same account) was prepared by one of the bank employee/witness. Said balance certificate is to be recovered from the applicant. Many such false and fabricated balance certificates are prepared either by applicant or at his instance, by employees of the said bank, those are required to be seized.

9. From the investigation done so far it is thus clear that applicant is one of the main accused who has played major role in commission of crime. Since he was at the helm of affairs as Chief Executive Officer, he has played active role in commission of forgery and misappropriation of public funds. Custodial interrogation of applicant is necessary for recovery of documents and for effective investigation. No case is made out by applicant to exercise discretion in his favour, in view of his complicity in the serious offence of misappropriation of huge public fund. Application being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]

Bhagyawant Punde