IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

905 BAIL APPLICATION NO. 1672 OF 2024

Sunil Ambadas Mankape Patil
VERSUS
The State Of Maharashtra
...
Advocate for Applicant : Mr. S. S. Tope
APP for Respondent-State: Mr. S. B. Pulkundwar
...

CORAM : ARUN R. PEDNEKER, J.
Dated : December 16, 2024.

PER COURT :-

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is seeking bail as he was arrested in connection with Crime No.30/2024, registered with MIDC CIDCO Police Station, Chatrapati Sambhajinagar dated 20/01/2024, for the offences punishable under sections 406, 408, 409, 420, 465, 467, 468, 471, 120-B, 34 and Section 3 & 4 of the Maharashtra Protection of Interests of Depositors (Financial Institutions) Act, 1999 and Section 21 and 23 of the Bailing of Unregulated deposit Scheme Ordinance 2019.

3. The investigation was set into motion in pursuance of the information given by the auditor Mr. Amanullah Hamed Khan Pathan, as per the direction and order of the District Deputy Registrar Co-operative Society. The prosecution is initiated as per the audit for the financial period of 2022 to 2023. The applicant came to be arrested on 19 of March

2024. There are total 5 offences registered against the applicant in identical facts for similar offences by the applicant and his family members in various institutions controlled by the family of the applicant. The applicant is granted bail in three of the offences charged.

4. The allegations against the applicant in the instant case are noted as under :

The wife of the applicant was the chairman of Aadharsh Mahila Nagri Sahakari Patsanstha. The applicant and his wife in conspiracy with the officials of the Patsanstha and by fabricating documents have sanctioned credit loans and thereby has caused loss to the Patsanstha. It is also alleged that the applicant and one Anil Ambadas Patil by fabricating documents has issued loan of Rs. 6 Lakhs to Bhimrao Tambe without his consent and has withdrawn the money for his personal benefit.

5. The applicant has also disbursed loan in the name of Shriram Electricals of Rs. 20,00,000/- with his signature without the consent of New Shriram Electricals and transferred the amount of a fabricated account.

6. In all, the applicant has fabricated 7 accounts with conspiracy in connivance of the applicant’s wife who is chairman of Aadharsh Mahila

Nagri Sahakari Patsanstha. It is also alleged that the applicant is the Manager of the Mahila Bank (another institution controlled by the family) and he has misused the position and taken various loans. In all, it is alleged that he has defrauded the Patsantha and various depositors to the tune of Rs. 4,06,22,205/-. It is alleged that the applicant has personally misappropriated the amount as noted above by himself.

7. It is the contention of learned counsel for the applicant that this Court has granted bail to the wife of the applicant who is alleged to be the chairman of the Patsanstha and has acted in conspiracy with the applicant. The applicant is not an office bearer of the bank. The allegation against the applicant and the chairman of the bank is identical in a sense that there is conspiracy with the wife of the applicant and with her assistance that the applicant has been able to defraud the bank and the depositors. Since the main accused is the wife in the crime and she having been granted bail by this Court on parity, bail should be granted to the present applicant. It is also stated that the applicant has been granted bail in another cases in identical fact situation in Bail Application No. 1676 of 2024 dated 3rd December 2024 and Bail Application No. 1670 of 2024 dated 3rd of December 2024.

8. He further submits that the other directors are the co-accused in the matters are granted bail and in this case, he submits that the

applicant is neither the office bearer, director or an employee of the bank. His role cannot be higher than that of the directors or the employees of the bank.

9. Per contra, Learned APP appearing for the State submits that the role of the applicant is not identical to the other accused and that he has played an independent role and his case needs to be examined on a complete different footing. It is further submitted that the accused who are granted bail by this Court are the directors of the bank or the office bearer of the bank and they are merely accused of having passed the resolutions whereas the applicant himself has made fraudulent transaction with intention to defraud the institution and creditors and that the applicant is directly benefited by the loan transaction. He received the money and has not repaid it. As such, he has cheated the depositors by not re-paying huge amounts of loan.

10. It is stated that the wife of the applicant is the chairman of Aurangabad Mahila Nagari Patsanstha Ltd. The applicant is not made an accused only because he is husband of the 'Wanita Patil'. He has defrauded huge amounts of loan from the Patsanstha on his individual capacity.

11. Having considered the rival submissions, it is necessary to note that at this stage this Court is considering the Bail Application of the

applicant. He is arrested on 19/03/2024 and the charge-sheet in the matter has been filed on 11/05/2024. In the charge-sheet the specific role which is attributed to the applicant which is reflected from Page 62 of the bail application, that he in conspiracy with his wife, has defrauded the Patsanstha to the total tune of rs. 4 crores approximately. There are individual withdrawals or loans granted on fictitious account in the name of the persons who had not applied for the loan the applicant has benefited from the transaction.

12. Whether the loans to the individual persons were fictitious or whether they were de-facto granted is a matter of trial. In all other cases, the allegation is that he was in conspiracy with his wife who defraud the Patsanstha. The wife of the applicant who is the chairman of the Patsantha is granted bail so also all the other directors are granted bail. It cannot be said by any stretch of imagination that the role of the applicant would be higher than that of chairman or other directors of the bank. There passing of resolution would mean that they have sanctioned the loans. Loans are alleged to be fraudulent without security and the directors responsibility would be higher if not equal to the applicant. As regards, the individual loan accounts are concerned, the allegations will have to be established in the trial. Be that as it may the role of the applicant cannot travel far beyond that of the chairman or the other directors. The trial in the matter is yet to commence.

13. The Supreme Court in the case of *Sangram Sadashiv Suryavanshi Vs. State of Maharashtra (Crl. A. No. 4758/2024)* has observed that "bail is the rule and shall not be refused routinely". So also in the case of *Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Another (Criminal Appeal No.2787/2024) dated 03/07/2024* has observed that the "prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious and there is no possibility of the trial been concluded in near future".

14. The evidence in the instance case is voluminous and the trial would take considerable time. The applicant is arrested and is in custody in this particular offence from the 19/03/2024. Considering the same, this Court deemed it necessary to grant bail to the applicant on following terms and condition.

a] The applicant shall be released on bail in connection with Crime No.30/2024, registered with MIDC CIDCO Police Station, Chatrapati Sambhajinagar dated 20/01/2024, for the offences punishable under sections 406, 408, 409, 420, 465, 467, 468, 471, 120-B, 34 and Section 3 & 4 of the Maharashtra Protection of Interests of Depositors (Financial Institutions) Act, 1999 and Section 21 and 23 of the Bailing of Unregulated deposit Scheme Ordinance 2019, on furnishing PR bond of Rs.15,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

c] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the witnesses and other persons concerned with the case.

d] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

15. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are prima facie and are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

16. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

PRW