IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

1048 BAIL APPLICATION NO. 1940 OF 2024

Keshav Bhausaheb Kale
VERSUS
The State Of Maharashtra
...
Advocate for Applicant : Mr. Rahul R. Karpe
APP for Respondents-State: Mr. A.A.A.Khan
...

CORAM : ARUN R. PEDNEKER, J.
Dated : November 21, 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 FIR No.0121/2022, dated 17/02/2022, registered with Kotwali Police Station, Ahmednagar, District Ahmednagar, for the offences punishable under sections 409, 420, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and Section 3, 4 and 5 of the MPID Act.

3. The learned counsel for the applicant submits that a similarly placed borrower has been granted bail in Bail Application No. 1077/2024 by order dated 09/10/2024. The learned counsel has taken me through the said order, particularly paragraphs 3 and 6, which read as under : -

> *"3. The prosecution case in brief was that the applicant was the borrower of the bank. He runs a firm by name M/s AVI Engineering Works. That firm raised the loan from the bank for book debt and working capital. He has secured the loans though not able to repay. He had shown the high value of the*

property mortgaged against the loan. He had prepared incorrect financial statements. He had obtained the loan for the above purpose but he used that amount to repay the loan of Bank of Baroda and other banks. In short, it has been alleged against him that he has diverted the funds for the other purpose than the purpose for which it was raised. He deliberately did not repay the loan. He had conspiracy with the Directors, Chairman and Bank Officers of the bank and they had benefited out of the said loan. The amount of Rs.65,00,000/- secured from the Head office inter branch transaction. He cheated to the depositors by transferring Rs.65,00,000/- from head office inter branch transaction."

"6. One of the Ex-Chairman of the Bank, after defeating in the elections, had made detailed investigation at his own and dug the transactions of the bank. Thereafter, he lodged the report on 17.02.2022. In the first information report, the applicant was not arraigned as an accused. Forensic audit of the bank was done and auditor has put certain notes about the illegalities by the Directors of the Bank. After a detailed forensic audit, the persons, who have been connected with the crime were arraigned as accused. The bank has already initiated the legal proceedings against them for recovery of the loan due. Overall facts of the case reveals that it is not the prosecution case that after securing the loan, the applicant never repaid single penny. From time to time, he has repaid the loan. So far as the allegations of using the loan amount for repaying the loan of Bank of Baroda and other banks, sanction letter is very

> *specific that it was a take over loan. Therefore, it could not be said that the loan was used for the purpose other than it was sanctioned. Except the allegations mentioned above, whether the applicant has nexus with the Chairman and Directors of the bank benefiting them, is a matter of evidence. The applicant had been interrogated thoroughly. It is not the prosecution case that the applicant did not support the investigating officer. He had roots at Ahmednagar. Hence, there is least possibility of his absconding. The trial will take its time. Hence, this Court is of the view that his detention would serve no purpose."*

4. The learned counsel for the applicant submits that the applicant, as a borrower, is a bona fide borrower and has six loan accounts with the bank, of which three have been closed by depositing an amount of Rs.15 crores. However, despite this, the bank has not released all the secured assets. Proceedings before the DRT have also been initiated against the applicant for the recovery of amounts.

5. He further submits that the bank has full security for the loan amount and that the order dated 09/10/2024 would be identically applicable to the factual position of the present applicant. In the said order, it was observed in the case of another borrower that the allegations made against them, including inflated valuation of mortgaged property and systematic fraud against the bank, are similar

to those made against the present applicant.

6. However, this Court, in Bail Application No. 1077/2024, noted that the applicant therein had been making payments and that the loan was used for its intended purpose.

7. In view of the fact that the security for the loan amount is already available with the bank and that the applicant has paid ₹15 crores to demonstrate bona fides, it would be appropriate to release the applicant on bail on the ground of parity with the accused, Avinash Prabhakar Waikar.

8. In view of the above, the application is allowed in the following terms : -

a] The applicant shall be released on bail in connection with FIR No.0121/2022, dated 17/02/2022, registered with Kotwali Police Station, Ahmednagar, District Ahmednagar, for the offences punishable under sections 409, 420, 467, 468, 471, 120-B read with 34 of the Indian Penal Code and Section 3, 4 and 5 of the MPID Act, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

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

e] 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.

9. 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 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.

10. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.