2024:BHC-AUG:27367

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

951 BAIL APPLICATION NO. 1959 OF 2024

SHANKAR GHANSHYAMDAS ANDANI
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr.Amit A. Yadkikar along with Adv.Akshay D. Kulkarni & Adv.Shritej Surve
APP for Respondent-State : Mr.A.A.A.Khan

…

CORAM : ARUN R. PEDNEKER, J.
DATE : 22.11.2024

P.C. :

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

2] The applicant is seeking bail as he is arrested in connection with Crime No. 0121 of 2022, registered with Kotwali Police Station, Ahmednagar, District Ahmednagar, for the offences punishable under sections 34, 409, 420, 467, 468, 471 of the Indian Penal Code and Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3] The applicant is a Technical Director of the Ahmednagar Urban Multi-State Co-operative Bank Ltd.

There are allegations against the Directors of the Bank for having misappropriation of the funds of the Bank and the present applicant was the Technical Director of the Bank from the period 02.11.2018 to 30th June, 2019. The name of the applicant is not mentioned in the FIR. However, the allegation against the applicant is that he has attended the some of the meeting in which the loans are disbursed. The relevant part of the Forensic Audit Report, which is at Page No.175, as under :

> *An amount of Rs.2.00 lakhs was transferred to Mr.Shankar Ghanshyamdas Andani on 31st August, 2018 from Mr. Devendra Dilip Gandhi's NUCBL Savings Account 1020007001866.*
>
> *C.A.Andani had transferred funds of Rs.6.00 Lakhs from his Axis Bank Account to M/s.Patiala House's Bank Account Number 1034014080125 with NUCBL on 11th February, 2020.*

4] The learned counsel further for the applicant further submits that the transaction of Rs.2 lacs dated 31st August, 2018, which is prior to the applicant being appointed as Director and it also relates to his professional job as Chartered Account wherein he has accepted the amount of Rs.2 lacs from Devendra Dilip Gandhi for payment of TDS and second allegations mentioned in the said audit report is concerned, which is reflected in the Bank, it relates after his resignation of 30th June, 2019. The transaction relates to 11th February, 2020 in respect of transfer of funds of Rs.6 lacs and he has paid the same from his Axis Bank Account to M/s. Patiala House's Bank Account No.103401408125 with NUCBL on 11.02.2020, which is for purchase of property of one of the borrower. The learned counsel for the applicant further submits that there is no evidence of any misappropriation by the applicant. He further submits that the Director of Bank, namely, Anil Khothari, who is responsible for day to day management of the Bank and disbursal of the loan, has been granted bail by this Court by order dated 18.10.2024 passed in Bail Application No.1273 of 2024. It is observed in the said order at para no.9 as under:

> *9. … As far as the forgery is concerned, a forensic audit report shows that the documents were not forged. He did not find the financial involvement / transactions in/with any of the borrower accounts during the period of assignment. No funds movement was observed which might have been received from borrowers MUCBL. The bank details of the applicant and his family members were also furnished. The auditor did not find anything adverse. However, the auditor recorded the observations that a conspiracy was plotted by all the office bearers and employees. Was the applicant a member of the conspiracy is the matter of appreciation of evidence. The relevant observations against the applicant do not show that he was the beneficiary of the borrowers granting them loans. Prima facie, it also appears that the assets of the bank are more than the liability and the total deposits as of 19.02.2019 were more than the balance to be paid. The bank has repaid the amount of Rs.9,29.27 crores to depositors in five years from 2019 to 2024. It appears that the applicant has supported the investigating agency. He is a senior citizen suffering from various ailments. There are a large number of*

> *witnesses. Therefore, it may be presumed that the trial will take its time. The material investigation against the applicant has been completed. Therefore, his further detention would serve no purpose.*

5] In the instant case also, only allegations against the applicant are as noted above in the audit report and there is no direct allegations related to any of his activity as the Technical Director of the Bank. The allegation of general conspiracy is made against the applicant along with other Directors and the same would be matter of evidence before the Court at the stage of the trial. At this stage, there is no evidence connecting the applicant in the alleged crime. The applicant is now in custody from 14th February, 2024. In view of the order dated 18.10.2024 passed by this Court in Bail Application No.1273 of 2024 granting bail in favour of the Director, Mr.Anil Kothari and considering that the applicant is being Technical Director of the Bank and he is not responsible for the day to day management of the Bank, the application is allowed in the following terms :

a] The applicant shall be released on bail in connection with Crime No. 0121 of 2022, registered with Kotwali Police Station, Ahmednagar, District Ahmednagar, for the offences punishable under sections 34, 409, 420, 467, 468, 471 of the Indian Penal Code and Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors (in

Financial Establishments) Act, 1999, on furnishing PR bond of Rs.50,000/- 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.

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.

6] 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.

7] The application stands disposed of.

8] The parties to act upon authenticated copy of this order.

9] In view of disposal of the present Application, Criminal Application No.4355 of 2024 is also disposed of as infructuous.

[ARUN R. PEDNEKER]
JUDGE

DDC