Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2623 OF 2023

Pravin Baburao Shinde ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Nitin Gaware Patil, a/w Anandmaya Dhorde and Shantanu Kolhe, for the Applicant.
Mr. B. V. Holambe Patil, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 14th MARCH, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State/respondent.

2. This is an application for bail in connection with CR No.569 of 2022, registered with Wakad Police Station, Pune, for the offences punishable under Sections 406, 420, 465, 467, 468 and 471 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. The first informant is working as a Branch Manager at South Indian Bank Ltd., Wakad Branch. The Bank had advanced loan to the borrowers. The applicant was working as a consultant for facilitating the loan to the customers of the

South Indian Bank Ltd., Wakad Branch. In one of the inspections by the officers of the branch, it transpired that the property against which loan advanced to Vishnu Ramdas Ghuge, one of the borrowers, was not standing in the name of the said borrower. The officers realised that the loan was availed by furnishing false and forged documents. Further inquiry revealed that the said loan proposal was processed by the applicant as a consultant. The applicant had allegedly processed the loan proposal of three borrowers, which were based on false and forged documents. One of the borrowers was Swapnil Bhumkar, the co-accused. It transpired that the Income Tax Returns and other documents filed alongwith the loan application of Swapnil Bhumkar were forged. The applicant came to be arrested on 14th July, 2022.

4. The learned Counsel for the applicant submitted that co-accused Swapnil Bhumkar, who was the borrower, has been granted pre-arrest bail by this Court by an order dated 12th September, 2023. It was submitted that this Court has recorded that the documents of title on the basis of which the Bank had advanced the loan were not forged. The loan proposal goes through a process of scrutiny. The applicant had merely acted as a consultant. Therefore, the applicant cannot be attributed with the role of forgery of the documents.

5. In opposition to this, the learned APP stoutly submitted that the allegations in the FIR would indicate that it was the applicant, who had submitted the documents of three borrowers. The applicant was the person, who had forged the documents. Therefore, the applicant does not deserve to be enlarged on bail.

6. While releasing the co-accused Swapnil Bhumkar on pre-arrest bail, this Court had *inter alia* observed as under:

> "6. The learned Counsel for Respondent No.2, on instructions, submitted that the Applicant has deposited the said amount of Rs.10 Lakhs on 2 May 2023, outstanding balance as on 6 September 2023 was Rs.72,64,753/- and the title deeds on the basis of which loan has been advanced are not forged. However, the account has been classified under fraud category on account of alleged false self-attested financial statement and debit and credit entry in the account and end use house certificate submitted by the Chartered Accountant.
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> 7. The situation which thus obtains is that the title deeds on the basis of which the loan has been advanced, are not forged. In the context of the allegations in the FIR, it becomes, prima facie, evident that the bank proceeded to examine all the cases which were proceeded through one Pravin Shinde who was acting as agent and in the scrutiny of those cases, it transpired that the some of the documents filed alongwith the loan application of the applicant were false. Since the loan applications were allegedly processed by Pravin Shinde and the title deeds on the basis of which Respondent No.2 Bank has advanced loan, are said to be genuine, the question of authorship of the alleged forgery would warrant adjudication at the trial. Pursuant to order of interim bail, the applicant seems to have co-operated with the investigation and, at this length of time, custodial interrogation of the applicant does not seem to be warranted."

7. Evidently, the documents of title on the basis of which the Bank has advanced the loan were not forged. It is alleged that the documents, which were submitted by the borrowers to show the financial capacity of the borrower were forged. In a situation of the present nature, the question as to whether the authorship of the forgery of the documents can be attributed to the applicant, who was the consultant, or the borrowers, would be a matter for adjudication at the trial. Evidently, the offences revolve around the documents. All the documents have been seized.

8. The applicant has been in custody since 14th July, 2022. Further detention of the applicant as an under-trial prisoner does not seem warranted.

9. The applicant appears to have roots in the society. Possibility of fleeing away from justice seems to be remote.

10. Hence the following order:

: O R D E R :

(i) The application stands allowed.

(ii) The applicant be released on bail in CR No.569 of 2022, registered with Wakad Police Station, Pune, on furnishing a P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.

(iii) The applicant shall mark his presence at the Wakad Police Station on the first Monday of every alternate month between 10.00 am to 12.00 noon for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]