IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.383 OF 2024

Swapnil Vilas Alande ....Applicant
V/S
Central Bureau Investigation
ACB, Pune & Anr. ....Respondents

WITH
CRIMINAL REVISION APPLICATION NO.396 OF 2024

Priyanka Swapnil Alande ....Applicant
V/S
Central Bureau Investigation
ACB, Pune & Anr. ....Respondents

Mr. Sandeep R. Karnik *for the Applicants.*
Mr. Amit Munde, Special PP with Mr. Jai Vohra *for Respondent No.1/CBI, ACB (Pune).*
Ms. Shilpa K. Gajare-Dhumal, APP *for Respondent No.2/State.*

CORAM: SANDEEP V. MARNE, J.
DATE : 07 OCTOBER 2024.

ORDER:

1 Applicants have filed these Revision Applications challenging orders dated 24 May 2024 passed by the learned Special Judge, CBI, ACB, Pune, rejecting applications filed by them for discharge. Applicants are arraigned as accused No.4 (Priyanka Swapnil Alande) and accused No.7 (Swapnil Vilas Alande) in Special Case No.1051 of 2022 for offences under section 120-B, read with sections 409 and 420 of Indian Penal Code and section 13(2) read with section 13(1)(d) of the Prevention of Corruption Act, 1988.

2 The prosecution story in brief is that Shri Rajendra Kumar Nehra, Deputy General Manager working in State Bank of India, Zonal Office, Pune, filed Complaint with Central Bureau of Investigations, ACB, Pune, which registered Case No. RC-Pune/2019/A/0013 on 7 December 2019 against total 13 accused, including the two Applicants. The FIR alleges that M/s Swaroop Homes LLP and its partners Smt. Priyanka Alande and Smt. Jidnyasa, Patil as well as M/s. Sai Essen 94 LLP alongwith its partners Shri Tejas More, Shri Swapnil Alande, Shri Bhausaheb Bhosale (Guarantor), Smt. Manisha Bhausaheb Bhosale (Guarantor), M/s. K.K.S.S. & Associates (Chartered Accountant), Dattatray Mali (empaneled Advocate of SBI) and others entered into criminal conspiracy with the officials of State Bank of India, Pirangut Branch, Pune, and thereby defrauded the Bank by causing wrongful loss to the tune of Rs.12.34 crores and consequent wrongful gain to themselves. It is alleged that M/s. Swaroop Homes LLP through its partners Smt. Jidnyasa Patil and Smt. Priyanka Alande submitted letter dated 6 July 2017 requesting the Bank Manager of State Bank of India, Pirangut Branch for loan of Rs. 31 crores for construction of residential houses at Moshi, Pune. It is alleged that the Bank officials showed undue favour to M/s. Swaroop Home LLP in processing the proposal in absence of any development permission for the proposed building and accepted total saleable area of 2,47,153 square ft. without verification. That M/s. Swaroop Homes LLP falsely represented that the land for project was already acquired in its name for which an amount of Rs. 7.4 crores was paid towards consideration in addition to payment of stamp duty and

registration charges, when in fact, the land still continued in the name of M/s. Sai Essen Developers at the time of credit appraisals and sanction. That the Zonal Credit Committee of State Bank of India sanctioned the loan proposal of Rs. 31 crores to M/s. Swaroop Homes LLP with various disbursement conditions. It is alleged that though the responsibility for carrying out the construction was only on two partners of M/s. Swaroop Homes LLP., M/s. Sai Essen 94 LLP was shown to have been involved in the process relating to loan and accordingly two partners of M/s. Sai Essen 94 LLP, Mr. Satish Agarwal and Mr. Ashok R. Mali were shown as co-borrowers alongwith M/s. Swaroop Homes LLP, who gave personal guarantees for the credit facility of and also signed various documents in favour of the Bank. It is further alleged that letter dated 2 March 2018 was signed by Smt. Jidnyasa Patil, Smt. Priyanka Alande, Shri Ashok Mali, Shri Satish Agarwal, Shri Bhausaheb Bhosale and Smt. Manisha Bhosale indemnifying the Bank about losses, costs, damages etc. by reason of fraud detected in respect of loan to be granted to the borrowers. It is alleged that the Bank officials entered into criminal conspiracy with Smt. Priyanka Alande and Smt. Jidnyasa Patil, partners of M/s. Swaroop Homes LLP alongwith several other individuals, including Mr. Swapnil Alande (husband of Smt. Priyanka Alande) and an amount of Rs. 12.34 crores was disbursed to the borrower out of the sanctioned amount of Rs. 31 crores. That such disbursal was in accordance with letter dated 24 November 2007 under signatures of Smt. Priyanka Alande and Smt. Jidnyasa Patil for transfer of amount of Rs. 8.09 crores to the accounts of eight different parties. That the partners of M/s. Swaroop Homes LLP gave false certificate of having spent Rs. 10.28 crores for the project. That though the letter dated 24 November 2017 was for disbursal of amount of Rs. 8.09 crores, the Bank officials disbursed amount of Rs. 8.34 crores. That the disbursed amount was thereafter diverted to various other accounts as more particularly indicated in the charge-sheet. It is alleged that amount of Rs. 10,00,000/- is found to have transferred to the account of M/s. Swami Gruha Udyog Khawa Kendra, Pune, which is engaged in the business of chocolate manufacturing and not in any construction activity. It is found that the amount of Rs. 3.94 crores and 3.46 crores from the account of M/s. Swaroop Homes LLP was diverted to M/s. Aditya Enterprises and M/s. Taniska Enteprises on 24 November 2017. Partners of the firms Smt. Priyanka Alande and Smt. Jidnyasa Patil further requested for disbursement of amount of Rs. 63.91 lakh by letter dated 28 November 2017 to be transferred in the names of various other persons and entities. Further request for disbursement of amount of Rs. 2.06 crores was made on 26 December 2017 and the said amount was again disbursed in the name of various entities and individuals. This is how it is alleged that the loan amount secured from State Bank of India was diverted to various entities and individuals thereby causing wrongful loss to State Bank of India and corresponding wrongful gain to the accused.

3 As observed above, Applicant Priyanka Alande is a partner of the borrower firm M/s. Swaroop Homes LLP whereas the

Applicant Swapnil Alande is Priyanka's husband. Both the accused filed applications seeking their discharge from Special Case No.1051 of 2022. The learned Special Judge has proceeded to reject both the applications by separate orders passed on 24 May 2024, which are subject matter of challenge in the present Revision Applications.

4 I have heard Mr. Karnik, the learned counsel appearing for the Revision Applicant and Mr. Munde, Special PP for Respondent No.1-CBI and Ms. Gajare-Dhumal, the learned APP for Respondent No.2-State.

5 After having considered the submissions canvassed by the learned counsel appearing for parties, it is seen that the accused in Special Case No.1051 of 2022 comprise of Bank officials (public servants) as well as private entities and individuals. There are specific allegations against each of the accused by specifying distinct roles ascribed to each of them relating to the allegation of fraud and cheating in the matter of sanction and disbursement of credit facilities made available by State Bank of India and its systematic transfer to various persons and entities instead of using the funds for completion of construction of real estate project.

6 So far as the Applicant Priyanka Alande is concerned, she is the partner of the firm M/s. Swaroop Homes LLP and it is too adventurous on her part to expect discharge from the case, when it is alleged that she is instrumental alongwith the other partner Smt. Jidnyasa Patil in availing the credit facilities, securing

disbursements and transfer of amounts into various other accounts. When the entire case is sought to be built against the firm M/s. Swaroop Homes LLP, it is incomprehensible as to how one of the two partners of the Firm can expect discharge from the case without giving an opportunity to CBI to present evidence collected by it. Discharging Applicant Priyanka Alande would virtually result in closure of the entire case and would enable the other partner Smt. Jidnyasa Patil also to apply for discharge on the principle of parity. The persons directly involved with the accusations levelled by CBI are partners M/s. Swaroop Homes LLP. Therefore, Applicant Priyanka Alande cannot expect an order of discharge in the facts and circumstances of the present case.

7 Mr. Karnik has sought to rely upon copy of the Central Forensic Science Laboratory (**CFSL**) report in support of his contention that none of the signatures on the concerned documents, which are sought to be attributed to the Applicant Priyanka Alande, are actually made by her. He has submitted that the CFSL report indicates that the signatures marked as Q1 and Q8 do not match the writing and signatures of the Applicant Priyanka Alande. It is therefore sought to be suggested that she has not signed a single document, and she is totally unaware about entire transaction in question. It must be observed that this is a bold stand taken by the Applicant-Priyanka Alande, who is one out of the two partners of M/s. Swaroop Homes LLP. She wants to convince this Court at the preliminary stage that her signatures are made by someone else for availing credit

facilities and she was not even aware about any transactions in the accounts of the firm. Thus what is sought to be contended is that though the Firm, of which she is a partner, has availed and used the funds disbursed by the Bank, all acts are done behind her back. In my view, it is too early to believe that the Bank can sanction and disburse credit facilities to a LLP, without its partner participating in the process. Also, if CFSL report is to be believed, it shows that Priyanka's husband Swapnil has made handwritings on various documents suggesting the persons and entities to whom the disbursements were to be made. Therefore at this stage, this Court cannot give a certificate of innocence to Applicant Priyanka Alande that she was totally oblivious about availing the credit facilities, disbursal of loan amount and transfer of various amounts into other accounts. CBI has relied upon several documents including applications for RTGS, which are signed by partners of M/s. Swaroop Homes LLP and it cannot be stated at this juncture that all those signatures are false or not made by Applicant Priyanka Alande. Therefore, it is difficult to record a firm opinion, at this stage, that there is absolutely no material to indicate Applicant Priyanka Alande's involvement in the entire episode.

8 So far as the other Applicant Swapnil Alande is concerned, the CSFL report itself indicates remarks in his handwriting in letter dated 24 November 2017 for disbursement of various amounts in the name of eight different individual/homes. Thus, though the said application for disbursement dated 24 November 2017 is shown to have been signed by the two partners of

M/s. Swaroop Homes LLP, the Applicant Swapnil Alande is alleged to have made the concerned endorsements for disbursement of various amounts to the desired persons/entities. As observed above, CBI has alleged that M/s. Swami Gruha Udyog is engaged in chocolate manufacturing whereas the said entity is described as "material supplier" for the purpose siphoning off amount of Rs. 10,00,000/- by way of hand-written endorsement made by the Applicant Swapnil Alande.

9 In my view therefore, there is sufficient material available on record for the purpose of drawl of inference of grave suspicion against both the Applicants. It cannot be stated that there is no *prima facie* material for subjecting the Applicants to trial. It can also not be stated that upon consideration of the entire material collected by CBI as true, the prosecution agency would not be in a position to secure conviction of the Applicants. I therefore unable to hold that the subjecting Applicants to prosecution would result in abuse of process of law. Therefore, no ground is made out by either of the Applicants for their discharge in the Special Case.

10 I therefore do not find any merit in both the Revision Applications. Both Revision Applications are accordingly **dismissed** without any order as to costs. Needless to clarify that observations made in the order are *prima facie* and shall not affect the Trial Court during the course of trial.

(SANDEEP V. MARNE, J.)