IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1898 OF 2024

Lavkumar Kedarnath Vadhera ...Applicant

Versus

The State of Maharashtra ...Respondent

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- Mr. Manoj Mohite, Senior Counsel a/w Mr. Chaitanya Pendse and Mr. Nilesh Navale i/b Chaitanya Pendse, for Applicant.
- Ms. Megha S. Bajoria, APP for State.
- Mr. D.S. Patil, P.S.I., CCDU, Crime Branch, Thane City.

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CORAM : MANISH PITALE, J.

DATE : 20th JUNE, 2024.

P. C. :

1. Heard Mr. Manoj Mohite, learned senior counsel appearing for the applicant and Ms. Megha Bajoria, learned APP for the State.

2. In the present case, the applicant seeks bail in the context of offences registered against him and co-accused persons as per First Information Report No.0177 of 2024 dated 15th February, 2024, registered at Police Station Mahatma Phule Chowk, Dist. Thane, for the offences under Sections, 406, 420, 465, 467, 471 and 120-B read with 34 of the Indian Penal Code (IPC).

3. The applicant is one of the seven accused persons in the present case. At the outset, the learned counsel for the applicant submits that the applicant is a senior citizen aged 81 years and he was arrested on 13th March,

2024, thereby demonstrating that he has already suffered incarceration for more than three months. It is submitted that even if the allegations leveled against the applicant are taken into consideration, no major role can be attributed to him and there is nothing to indicate that he undertook any specific act, so as to cheat the complainant Bank. It is submitted that there are documents on record to indicate that a Memorandum of Understanding (MoU) was executed between the sons of the applicant, who are also accused persons, which was signed by the applicant as Power of Attorney Holder of one of his son, whereby they arrived at an understanding with the main accused person i.e. accused No.1 for availing loan from the complainant Bank. It is submitted that a proper appreciation of the documents filed along with the present application would show that hardly any role can be attributed to the applicant. It is submitted that since the learned APP has informed this Court today that charge-sheet has been recently filed on 10th June, 2024, there is no purpose for which the applicant, who is 81 years old, is required to be kept behind bars.

4. Ms. Megha Bajoria, learned APP submitted that there is sufficient material to indicate the involvement of the applicant in the present case while cheating the Bank into advancing loan for a sale transaction. It is submitted that the informant / complainant Bank was never apprised of the said MoU or the arrangement between the applicant, his sons and the main accused i.e.

accused No.1. It is further submitted that although a copy of the charge-sheet is not available today, the statement of the informant and the documents presently available with the instant application are sufficient to show the complicity of the applicant. The learned APP does not deny the fact that the applicant is indeed a senior citizen aged about 81 years.

5. This Court has considered the rival submissions in the backdrop of the material on record. A perusal of the statement of the informant, who is an employee of the complainant Bank, shows that according to the informant, the accused persons, including the applicant before this Court conspired to cheat the Bank in order to take loan of a huge amount of ₹ 6.9 Crores. It was submitted that MoU dated 15th December, 2020 was never brought to the notice of the complainant Bank and the accused persons, including the applicant before this Court clandestinely distributed the loan amount amongst themselves, without executing proper documents, thereby cheating the complainant Bank and in the process committing the offence of forgery.

6. This Court has perused the material on record. The statement leading to registration of the FIR itself shows that the applicant gave the copy of the MoU dated 15th December, 2020, to the officers of the complainant Bank. The officials of the complainant Bank were required to visit the subject flat, for the reason that after 32 installments were duly paid, the accused No.1

in whose name the loan was disbursed had committed defaults. The aforesaid statement of the informant shows that upon the applicant himself giving a copy of the said MoU,the complainant Bank became aware about the understanding or arrangement between the accused persons, which according to the bank, demonstrated that it had been cheated into advancing the aforesaid loan.

7. The applicant signed the MoU as Power of Attorney holder of one of his sons, who is also a co-accused person. He also singed as a constituted attorney of both his sons on a registered agreed for sale concerning subject flat executed in favour of accused No.1 The material on record also shows that part of the loan amount was utilized in paying off a loan on the said flat given by the finance company and the remaining amount was handed over to the sons of the applicant as the vendors concerning the agreement for sale dated 22nd December, 2020.

8. This Court is of the opinion that the applicant, as the father of the two co-accused persons, executed certain documents on their behalf claiming to be their Power of Attorney holder. At the relevant time when the document was executed, the applicant was about 77 years. Although, the learned APP has placed much emphasis on the aspect that copy of the purported Power of Attorney was not placed before this Court, at this stage, it

would be appropriate to proceed on the basis of the allegations made by the informant, which led to registration of the FIR. It appears that the thrust of the allegations is against accused No.1 and the sons of the applicant. In the facts that emerge presently from the material available before this Court, it appears that the applicant signed the MoU and the agreement for sale for and on behalf of his sons. This Court is of the opinion that when such documents were executed the applicant was about 77 years old and today he is a senior citizen aged 81 years.

9. The applicant has already undergone incarceration for more than three months as he was arrested on 13th March, 2024. There is possibility of the applicant at this sage in his life suffering serious health issues if he is kept behind bars for further period of time. The charge-sheet having been filed recently on 10th June, 2024 shows that the trial in the present case would take considerable period of time, particularly because the main accused i.e. accused No.1 is still absconding.

10. In these circumstances, this Court is inclined to allow the present application by imposing appropriate conditions on the applicant.

11. Accordingly, the application is allowed in the following terms:

(A) The applicant shall be released on bail in connection with First Information Report No.0177 of 2024 dated 15th

February, 2024, registered at Police Station Mahatma Phule Chowk, Dist. Thane, for the offences under Sections, 406, 420, 465, 467, 471 and 120-B read with 34 of the Indian Penal Code (IPC), on furnishing P.R. bond of ₹ 50,000/- and one or two sureties in the like amount, to the satisfaction of the Trial Court.

(B) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

(C) The applicant shall cooperate with the proceedings before the Trial Court.

12. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of bail.

13. It is made clear that this Court has allowed the application of the applicant in the light of the allegations made against him and particularly in the light of the fact that he is a senior citizen aged 81 years, who has already undergone incarceration for more than three months. The other accused persons would obviously have to make out their case independently for seeking relief of bail.

14. The observations made in the present order are limited to considering the prayer for bail made on behalf of the applicant.

(MANISH PITALE, J.)