IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4425 OF 2024

Rajiv Vishnu Saxena ...Applicant
vs.
The State of Maharashtra and Another ...Respondents

Mr. Niranjan Mundargi a/w. Ms. Keral Mehta, Mr. Kunal Ambulkar i/b. Mr. Vikas Tiwari and Mr. Gopal Singh, for the Applicant.
Mr. Padamkumar Jalan a/w. Mr. Rohan Waghmare, for the Intervener.
Mr. A.A. Naik, APP for the State.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 16, 2024

P.C.:

1. Heard the learned counsel for the parties.

2. The applicant, who is arraigned in C.R. No. 256 of 2023 registered with Cuffe Parade police station for the offences punishable under sections 409, 420, 421, 465, 467, 468, 471 and 477 read with 34 of Indian Penal Code, 1860 (the Penal Code) has preferred this application for bail.

3. The applicant was working as a Branch Manager at Colaba branch of Punjab National Bank. Jain Shwetambar Terapanth Samiti, of which Hemant Jain, respondent No. 2/ first informant, was the trustee, had maintained an account with Punjab National Bank, Colaba branch. The said trust had, inter alia, maintained two fixed deposits with the bank.

4. The first informant lodged a report with the allegations that

the amount, covered by two fixed deposit receipts (FDRs), deposited with the Punjab National Bank, Colaba branch was fraudulently transferred in the name of Sohan Singh Rajpurohit, the co-accused by falsely showing that those FDRs were withdrawn pre-mature by forging the signatures of Ugam Singh, the alleged President of the trust. It was alleged, inter alia, that the applicant, the then branch manager, had unauthorizedly taken the print out of FDRs and also obtained an application for loan against security of those FDRs from Sohan Singh Rajpurohit, the co-accused. The said proposal for loan was approved and the sum of Rs. 96,32,200/- was transferred to the account of Sohan Singh. Thereafter, the said amount was transferred to the account of Amish Ashvin Shah, another co-accused, who was a friend of the applicant.

5. In fact, this is the second application for bail. The first application being B.A. No. 1155 of 2024 was disposed of as withdrawn on 18th June, 2024. This Court had, however, granted liberty to revive the prayer for bail after a period of nine months, in the event the charge was not framed.

6. In Criminal Appeal No. 4214 of 2024, in view of the submission that the main accused had been granted bail, the aforesaid condition of reviving the prayer after nine months was set aside by the Supreme Court and liberty was granted to the

applicant to file a fresh application for bail. Availing the aforesaid liberty, the applicant has again approached this Court.

7. Mr. Mundargi, learned counsel for the applicant, submitted that there has been substantial change in the circumstances. One, not only the co-accused Sohan Singh but Amish Shah, another co-accused, who was alleged to be the ultimate beneficiary has also been enlarged on bail. Secondly, the amount has been paid back to the trust by the Punjab National Bank. It was further submitted that, there is no material to indicate that the applicant was the alleged beneficiary of the fraud. On the contrary, the material on record indicates that the entire proposal was processed by the co-accused Niranjan Nayak H.R. Therefore, the applicant deserves to be enlarged on bail.

8. Mr. Naik, the learned APP resisted the prayer for bail. It was submitted that the applicant was the kingpin. The applicant has abused his position of trust and confidence and fraudulently permitted pre-mature withdrawal of FDRs on the strength of false documents.

9. Mr. Jalan, the learned counsel for respondent No. 2/ trust submitted that the applicant does not deserve to be enlarged on bail as the applicant despite having been entrusted with the responsibility to efficiently and faithfully manage the affairs of the

bank committed an egregious fraud. The acts and conduct of the applicant have the propensity to erode the trust of the people in the banking system. It was further submitted that, since the charge has already been framed, the trial can be concluded expeditiously. Therefore, the applicant does not deserve to be enlarged on bail.

10. I have carefully perused the material on record.

11. Prima facie, there is material to show the complicity of the applicant. It would be difficult to believe that without the involvement of the officers of the bank, such an egregious fraud could have been committed. In addition, there is prima facie material to show that there was an apparent conflict of duty of the applicant and his interest in the context of the assistance rendered by the applicant to his alleged friend Amish Shah, the co-accused, who was the ultimate beneficiary of the alleged fraud.

12. Nonetheless, the fact that Sohan Singh Rajpurohit, the co-accused who has allegedly submitted the forged documents, and in whose account the proceeds of FDRs were credited, and Amish Shah, the co-accused who was the ultimate beneficiary of the fraud, have been released on bail, cannot lost sight of. It is imperative to note that there is prima facie material to show that the said amount of Rs. 96 lakhs which was credited to the account of Amish Shah was utilized to clear two car loans availed by the said co-accused.

Whether the applicant was also one of the beneficiaries of the alleged fraud would be a matter for adjudication at the trial. Moreover, the investigation is complete for all intent and purpose, the offences, in a good measure, revolve around documents, the applicant has been in custody since 8th November, 2023, the applicant appears to have roots in society and the possibility of tampering with evidence and fleeing away from justice appears remote. Therefore, I am inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant be released on bail in C.R. No. 256 of 2023 registered with Cuffe Parade police station, on furnishing a P.R. Bond of Rs. 50,000/- with one or more sureties in the like amount, each.

3] The applicant shall mark his presence at Cuffe Parade police station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.

4] The applicant shall not tamper with the prosecution's evidence and give threat, promise or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to the police or any police officer.

5] 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.

6] The applicant shall regularly attend the proceedings before the jurisdictional Court.

7] 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 disposed.

(N. J. JAMADAR, J.)