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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ BAIL APPLN. 1192/2024

MANISH JAIN ..... Applicant

Through: Mr.Sanjay Jain, Sr. Adv. with Mr.Nalin Tripathi, Mr.Sarfaraz Ahmad, Mr.Nishank Tripathi, Ms.Harshita Sukhija, Mr.Nischal Tripathi, Ms.Srija Rawat and Ms.Palak Jain, Advs.

versus

STATE ..... Respondent

Through: Mr.Aman Usman, APP with SI Laxman Kumar

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

<u>O R D E R</u>

% **13.05.2024**

1. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') praying for the applicant to be released on bail in FIR No.0110/2022 registered at Police Station: Economic Offences Wing, Delhi under Sections 420/409/120B of the Indian Penal Code, 1860 (in short, 'IPC').

2. It is the case of the prosecution that the applicant used to work as a Gold Appraiser with the Indian Bank. A complaint dated 24.09.2021 was received from the Indian Bank *inter alia* stating therein that the Bank used to grant loan against the pledge of gold ornaments as per bank's extant policies. During the Year 2021, the bank noticed some foul play while disbursing the gold loan. A detailed

verification was conducted into the gold loan accounts and of gold ornaments pledged in the branch. On verification, it was found that gold ornaments pledged in the branch in 80 other gold loan accounts were of spurious quality and the reports of earlier Gold Appraisers were false regarding the fineness, purity and valuation. In most of these accounts, the Gold Appraiser certificate was issued by the applicant herein and the certificate was found to be false.

3. The complaint further states that being alarmed with the above, a fresh verification was conducted in other branches of the Indian Banks and it was found that the applicant has given Gold Appraiser's certificate regarding genuineness of gold ornaments pledged in 35 accounts in Indian Bank, Naveen Shahdara Branch situated at Vikas Mall, East Delhi. It was found that the gold ornaments were of spurious nature and the total outstanding dues of these accounts were around Rs.10.56 crores.

4. The prosecution further alleges that on scrutinizing the Original loan files, it was found that there are total of 37 borrowers who took loan from Indian Bank on the basis of fake gold pledge.

5. Notices were sent to the concerned banks, and bank statements along with KYC/AOF of beneficiary accounts were obtained. It was found that ultimate beneficiary of most of the loan accounts was the applicant himself, having routed the money through his family/relatives/firms.

6. It is alleged that the applicant certified the fake gold loan deposited by 115 borrowers causing a loss to the extent of Rs.10.56 crores to the bank. Details of this alleged routing of the money is also

given in the Status Report filed before this Court.

7. The learned senior counsel for the applicant draws the attention of this Court to the *'Master Circular on Gold Jewel Loan-2020'* dated 21.03.2020 issued by the Indian Bank, to submit that a detailed process of verification and disbursal of the loan amounts has been laid down by the Indian Bank in this circular. He submits that the appraisal has to be conducted in presence of the Manager/officer-in-charge of the bank and also in the presence of the borrower. After such appraisal, the jewellery is then kept in a cloth bag firmly tight/packed and identification slip bearing loan details such as account number, name of the loan applicant, date of loan, etc. is also pasted on the jewel packets. The circular also provides that the whole process is to be covered by the CCTV camera while the jewel appraiser is appraising the jewels and sealing the jewels, so as to ensure that the appraisal is under the supervision of the officer-in-charge of jewel loan portfolio. Apart from the appraisal, proper KYC documents with photograph are to be obtained for enabling the identity of the borrower. Discreet enquiries about the occupation and other particulars of the applicant so as to satisfy the *bona fide* of the loan are also to be made. The loan is to be granted only to properly introduced customers and not to the relatives or persons introduced by the appraiser. The Manager of the bank is also to satisfy himself about the genuineness, purity and weight of the ornaments and not depending entirely on the appraiser for the valuation. He submits that in view of such stringent process, the applicant alone cannot be charged for the offence. In the present case, charge sheet has not been filed against

any borrower or the bank officials.

8. The learned senior counsel for the applicant submits that, in the present case, the alleged verification of the gold was not done by the bank in the presence of the applicant or the borrower. The jewel bags, when produced before the police, were in an open condition. He submits that, therefore, no value can be attached to such the verification process.

9. He submits that, even as per the Status Report, further investigation is ongoing *qua* the role of the beneficiaries and the money trail. He submits that the applicant has been in custody for around 4 months and, therefore, be released on bail.

10. On the other hand, the learned APP submits that, in the present case, the applicant performs a very vital role in the approval of the loan based on the pledge of the gold ornaments. It is the applicant, who certifies the value of the gold. These certificates were found to be not genuine inasmuch as the gold was found to be spurious or of a lesser value. In this manner, the bank was cheated and, therefore, offence under Sections 420/409/120B of the IPC has been rightly charged against the applicant. He submits that the applicant was also the major beneficiary of the loans that were disbursed on the basis of his report, as the money was routed eventually into his own account. Instances of the same have been given in the Status Report.

11. To a query of this Court if any of the borrowers or the bank officials have been charged along with the applicant in the Charge Sheet, he fairly submits that the investigation regarding their role is still in progress.

12. I have considered the submissions made by the learned counsels for the parties.

13. Keeping in view the submissions made by the learned senior counsel for the applicant with respect to the Master Circular of the Indian Bank dated 21.03.2020, the investigation being in progress with respect to the beneficiaries as also the bank officials, and also keeping in mind the period of incarceration already undergone by the applicant, in my view, the applicant has been able to make out a case for grant of bail.

14. Accordingly, it is directed that the applicant be released on bail in FIR No.0110/2022 registered at Police Station: Economic Offences Wing, Delhi under Sections 420/409/120B of the IPC, subject to furnishing a personal bond in the sum of Rs.50,000/- with one local surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

i. The Applicant shall surrender his passport to the Court concerned and will not leave the country without the prior permission of the learned Trial Court.

ii. The Applicant shall provide his permanent address to the learned Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.

iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.

iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the Ld. Trial Court and the IO concerned.

v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any other of the prosecution witnesses or tamper with the evidence of the case while being released on bail.

15. Needless to state, any observation touching upon the merits of the case is purely for the purposes of deciding the question of grant of Bail and shall not be construed as an expression on the merits of the matter.

16. The application is disposed of in the above terms.

17. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

MAY 13, 2024/ns/ss

Click here to check corrigendum, if any