Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 684 OF 2025

Somu Nanje Gowda .. Applicant
Versus
The State of Maharashtra .. Respondent

....

- Mr. Pradeep Singh a/w Ms. Ruchika Rajpurohit for Applicant
- Mr. Dinesh J. Haldankar, APP for State

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 17, 2025

P. C.:

1. Heard Mr. Singh, learned Advocate for Applicant and Mr. Haldankar, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") in connection with Crime No. 199/2024 registered with Goregaon Police Station for offences punishable under Sections 406, 409, 420, 463, 464 & 465 r/w 34 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. Applicant is arraigned as accused No. 2 in the present crime. He is one of the borrowers from Union Bank of India. He is the borrower of the amount after pledging gold ornaments from the said bank. Record of the case shows that amount in excess of Rs. 1.68 Crores was distributed by Union of India to Applicant and other co-accused persons with him. One of the other co-accused persons is the Applicant's wife herself.

4. The case of the prosecution is that as there was a default on the part of the Applicant as also other co-accused persons to service the loan, Bank decided to auction the gold ornaments which were pledged with the Bank. *Prima facie* it is seen that Bank had advanced gold loan to the accused persons including the Applicant. According to the prosecution case, the amount alleged to have come to the share of the Applicant is Rs. 18.91 Lakhs (approx.). *Prima facie* the material placed on record would reveal that when the Applicant approached the Bank and pledged gold, the same was evaluated by 4 empanelled valuers by the Bank on its panel who gave their valuation certificate on the basis of which the Bank considered disbursement of the gold loan.

5. Mr. Haldankar, learned APP would submit that the Applicant along with other co-accused was complicit in the crime of pledging fake/unreal gold with the Bank, obtaining disbursal of the loan amount and subsequently committing default. Undoubtedly it shall be open to the prosecution to prove the charge at the trial. Complicity of the Applicant either with the bank officials or for that matter with the empanelled valuers can undoubtedly be proved at the trial. The question that intrigues the Court is that the loan disbursement was carried out based on the valuation certificate authenticated by the Bank's empanelled valuers.

6. One more submission made by the learned APP is that all other co-accused have been enlarged on bail as they have returned the amounts that had come to their share concerning the disbursement of the total loan amount. In so far as the Applicant is concerned, Mr. Singh would submit that since the Applicant's bank account has been frozen, it is not possible for him to show his bonafides for returning the said amount.

7. However, in view of my aforesaid *prima facie* observations, Applicant has made out a case for grant of bail as prima *facie* no nexus of Applicant is shown with the valuers of the Bank who have certified the pledged gold with the Bank. Hence, Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs. 50,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs. 50,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

(v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

8. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

9. Bail Application is allowed and disposed.

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[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR

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Date: 2025.03.17 19:54:35 +0530