Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 53 OF 2025

Dharmendra Santosh Gupta .. Applicant
Versus
State of Maharashtra .. Respondent

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- Ms. Kriti Samdade a/w Mr. Sushan Ojha & Ms. Priyanka S. Sahu for Applicant
- Ms. Mahalakshmi Ganapathy, APP for State
- Mr. Vaibhav Dhanawade, PSI, Kashimira Police Station is present

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 31, 2025

P. C.:

1. Heard Ms. Samdade, learned Advocate for Applicant and Ms. Ganapathy, learned APP for State.

2. On 21.01.2025, this Court passed the following order after hearing the parties:-

> "***1.*** *Heard Ms. Samdade, learned Advocate for Applicant and Ms. Ganapathy, learned APP for State.*
>
> *2. Applicant is indicted as accused No. 2 out of 8 accused in Crime No. 492/2024 registered with Kashimira Police Station. FIR is lodged on 24.09.2024. It pertains to availing loan of Rs. 3.9 Crore (approx) by accused No. 4 and some of his associates sometime in the year 2021-22. Complainant is the Manager of HDFC Bank, Mira Road Branch who has filed the FIR.*
>
> *3. According to the prosecution case, accused have played a massive fraud by hatching a conspiracy to avail substantial loan from HDFC Bank and thereafter not repaid the same. In so far as the specific role of the Applicant before me is concerned, there is nothing in the FIR save and except stating that*

Applicant is the Director of the company called Yatharth Investment and Finance Pvt Ltd who employed one Mr. Jeevan Prajapat arraigned as accused No. 4 who approached HDFC Bank for availing the loan amount. According to the complainant, said accused No. 4 had produced salary slips issued by Yatharth Investment and Finance Pvt Ltd of which Applicant is the Director. However according to the complainant, the same is not correct because the said borrower Jeevan Prajapat has received his salary through another proprietorship firm called M/s. Yatharth Global Business Services.

4. If economic fraud is pleaded, details of the same have to be given. In the complaint it is stated that accused No. 4 has in conjunction with four other similar borrowers namely Golu Kumar Singh, Abhijeet Deepak Kamble, Abhishek Suresh Pawar & Pradeep Jawaharlal Kanojia availed substantial loan from HDFC Bank between 2021-2022. These loans were availed by them as personal loans. Complainant states that it is only after scrutinizing the papers which were submitted for availing the said loan, bank realized that there was some discrepancy in the salary slips. Prima facie if such a discrepancy was there, it ought to have been detected before grant of loan. This is what any prudent Bank will otherwise do. In the complaint,it is also stated that the sole proprietor of Global Business Services is one Mr. Sonu Bhuti Singh who is arraigned as accused No. 3. However he has been enlarged on bail by order dated 19.10.2024 by Magistrate Court which is appended at page Nos. 72-74 of the Application. Said order clearly records that investigation in such case would primarily dependent on documentary evidence which does not require custodial presence of accused. Same principle applies in the Applicant's case also.

5. However considering the vehement objection raised by learned APP in order to determine the role of Applicant and the fact that substantial amount of public money has been availed as loan by accused No. 4, she would submit that prosecution be given one opportunity to investigate the matter. Considering the request made by learned APP, Applicant is directed to attend the concerned Police Station from 23.01.2024 to 28.01.2024 between 10:00 a.m. to 05:00 p.m. along with all documentary evidence as called for by the Investigating Officer and participate in the investigation.

6. Applicant shall not be arrested till the next date and no coercive steps shall be taken against the Applicant.

7. Once the investigation is completed, Investigation Officer is directed to prepare a comprehensive report in respect of involvement of Applicant and place the same before this Court for consideration.

8. Stand over to 30th January, 2025. To be placed under the caption "First on Board".

3. In compliance of the directions contained in paragraph No. 5 of the above order, learned APP has made certain submissions. She would place before me the documentary evidence to the effect that Applicant before me being the Director of the Company has signed certain documents for investment as fixed deposit on behalf of the said Company to the tune of Rs. 17 Lakhs in Utkarsh Small Finance Bank. Statement of accused is placed before me. Said fixed deposit account has been frozen and the said amount has been secured. That apart the precise role of the Applicant has also been pointed out by learned APP by placing before me certain documents with respect to his signature being appended as Director of the Company on bank account opening form of the said Company.

4. It is *prima facie* seen that apart from the Applicant, details of other Director Mohd. Aaqueeb Anis Ahmed Shaikh as also the Applicant's TAN number is also stated. *Prima facie* the specific case made by the complainant i.e. Manager of HDFC Bank that the

Applicant before me arraigned as accused No. 4 in conjunction with the four other similar borrowers awarded loan is not seen. Nevertheless it shall be open to the prosecution to prove the same in trial. As held by the Trial Court while enlarging accused No. 3 on bail considering that the records placed before it, custodial interrogation is not warranted. The same principle also applies to the present Applicant – accused No. 4. In that view of the matter, Applicant is granted pre-arrest bail on the following terms and conditions:-

O R D E R

(i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

(ii) Applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;

(iii) Applicant shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00 noon until the Charge-sheet is filed and as and when called for by the investigating officer thereafter;

(iv) Applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

5. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

6. Application is allowed in the aforesaid terms and is accordingly disposed of.

Amberkar

[MILIND N. JADHAV, J.]

RAVINDRA MOHAN AMBERKAR

Digitally signed by RAVINDRA MOHAN AMBERKAR
Date: 2025.01.31 14:24:56 +0530