Spl.C.No.No.92/2024.

The State of Maharashtra.
Vs.
Manoj Vasantlal Firodiya.

:ORDER BELOW EXHIBIT 47:

1. This is the second bail application filed by applicant Manoj Vasantlal Firodiya under Section 439 of Cr.P.C. for the grant of regular bail for the offence punishable under Sections 409, 420, 467, 468, 471 r.w. Section 34 of the Indian Penal Code and under Section 3 of the MPID Act, registered by Kotwali Police Station, Ahmednagar, vide C.R. No.121/2022. The first bail application was filled before filing of charge-sheet.

2. According to the prosecution, the complaint is lodged by complainant Rajendra Tarachand Gandhi, resident of Ahmednagar, who is a member and account holder of Nagar Urban Bank Ltd., Ahmednagar. It is alleged by the complainant that the accused persons were working as the Chairman, the members of Board of Directors, officials and servants of the Nagar Urban Bank Ltd., Ahmednagar. Accused persons were working on the responsible posts in the Bank and they were at the helm of administration in the said Bank. Their tenure was from the year 2014 to 2019. Accused persons in collusion with the borrowers prepared fake, forged and bogus documents including loan documents and valuation reports etc. Accused persons sanctioned the loan proposals indiscriminately by flouting the prescribed norms, rules and regulations and committed serious irregularities in other transactions also and ultimately defalcated huge amounts of the members and investors of the Bank. Accused persons in collusion with each other misappropriated and defalcated the huge amount of Rs. 100

Crores to Rs.150 Crores of the Nagar Urban Bank and derived undue monetary benefits from the same. Accordingly, the Crime was registered.

3. The learned Advocate for the applicant submitted that, the applicant-accused is innocent person and falsely implicated in this crime. The applicant was arrested on 20.02.2024 and since then he is in jail. First bail application was rejected on 18.05.2024, thereafter, the charge-sheet was filed. This is change in circumstances, hence, this bail application is filed after the filing of charge-sheet. On basis of forensic report the applicant made accused in this case.

4. The applicant has not committed any offence. It appears that ingredients of alleged Sections do not attract. There is no incriminating evidence against applicant. Facts and circumstances itself show that accused is innocent as the false FIR is lodged. The applicant was working with the Bank since 1989 and had an unblemished record.

5. The learned Advocate for applicant further submitted that in the whole charge-sheet there was no documents which suggest valuation or solvency of borrower. There was no statements of witnesses against this accused. Not only this but no valuer made co-accused in this case. Regarding allegation of misappropriation of funds the allegations are vague in form. Regarding the amount of 72,75,22,558/- which was withdraw in cash but no specific entry of the statement of account of the bank is found any place in the charge. Nothing is on the record which show that accused is benefited from the acts of either borrowers or anybody else.

6. The learned Advocate for applicant further submitted that the applicant was working as Assistant Chief Manager, Loan Scrutiny, during September 2017 to May 2019. However, applicant has not committed any offence. After scrutiny of loan application by applicant, it was being placed before various other officials and lastly it was being approved by the Board of Directors of the Bank. Even though the applicant has recommended the loan proposal or refused it, the Board of Directors had independent right and role to approve it or reject. The only role of applicant was to scrutinize the documents such as search report, project report or valuation report etc. It was the duty and responsibility of the Board of Directors of the Bank to approve or reject the loan proposal notwithstanding the recommendation made by applicant. Branch Manager had role to get executed all documents from borrowers in order to secure interest of the Bank, as specified in the sanction letter. Issuance of the sanction letter by the applicant does not make him the sanctioning authority. It is the Board of Director who is responsible for sanctioning of loan.

7. The learned Advocate for the applicant further submitted that, Being a scrutiny officer in the year 2017 to 2019 the applicant never recommended excess amount as alleged in the F.I.R. Letter dated 12.02.2020 by the administration of Bank to RBI, it was specifically stated that BOD has sanction loan despite that department recommended less loan or no recommendation for loan. In the said letter it was specifically whisper that department recommended cash credit and term loan limit of Rs.50 lakhs to Indian Engineering Industries. But BOD sanction 6 crore and 5 crore each. Not only this but in case of Nes Lib Technorial, department recommended C.C. of 1.5 crore and WCTL Limit of 4 crore but BOD sanction 6 crore and 5 crore.

Not only this but in certain cases BOD were sanctioned the loan taking aside the consideration of department. Because of such type of nature applicant sent the letter dated 19.09.2020 to the administrator.

8. The learned Advocate for the applicant further submitted that, in forensic audit cash deposits of amounts 1000 to 1 lakhs were observed in the bank account of the applicant. Cash deposit of 1 lakh in the account of son of applicant. The entries are for his son's education, payment towards the local authority and payment to suppliers. Credit debit entries is within time of one or two days. The account statement, shop act licence and I.T. returns are on the record. There was no adverse inference against the applicant in forensic auditor.

9. The learned Advocate for the applicant further submitted that, there is no single loan proposal wherein the applicant has recommended excess amount. Hence, there is no question of illegality.

10. The learned Advocate for the applicant further submitted that, F.I.R. does not mentioned the name of the applicant and he was made accused on the basis of forensic audit report. It is alleged that, applicant help the valuer for preparation of false valuation report, but regarding the same there was no documentary or any other evidence in the entire charge-sheet. There is no direct or indirect evidence which show that applicant is directly involved in this offence. It is the duty of borrower to submit the valuation report. Hence, the applicant is not responsible for any valuation report.

11. The learned Advocate for the applicant further submitted that, valuer Abhijit Ghule lodge the complaint bearing F.I.R. No.

6352/2020 regarding his assistant Mukesh Korde has forged his signature and issued false valuation report. But his statement does not mentioned the involvement of any bank officer or applicant.

12. The learned Advocate for the applicant further submitted that, there are no allegations against the present applicant in the FIR. No incriminating role is attributed to the applicant. Sections alleged do not attract against the applicant. Applicant has not defrauded any person.

13. The learned Advocate for the applicant further submitted that, applicant has been arrested on the basis of Forensic Audit Report. In Remand report, only general allegations are levelled against the applicant. During investigation, nothing incriminating has been recovered from the applicant-accused. Applicant has already been enquired by the police. He has already furnished entire information and documents available with him. Entire record is available with the police authorities. Further presence of applicant behind bars is not at all warranted. There is no material which would connect the applicant with the alleged offence.

14. The learned Advocate for the applicant further submitted that, the applicant has not done any transaction which would be prejudicial to the interest of the Bank and the depositors. Applicant has not committed any fraud.

15. The learned Advocate for the applicant further submitted that, the applicant is not a beneficiary of any of the alleged transactions. None of the alleged Sections attracts against the applicant. Applicant

has no concern with the alleged documents. All the documents are with the bank. Thus, there is no question of tampering with the evidence. The criminal liability cannot attract against applicant. Sections under MPID Act do not attract against the applicant as Nagar Urban Bank is not a financial institution within the meaning of the Act. It is simply a Multi-State Co-operative Bank.

16. The learned Advocate for the applicant further submitted that, nothing is to be recovered or discovered from the applicant-accused. Investigation against applicant is not remained. Applicant was in service of the Bank. Applicant has no criminal antecedents. The say of the prosecution is totally based on assumption and presumption and there is no substance in the say. In the whole charge-sheet no specific details are provided how the applicant committed offence. Moreover, the F.I.R. and charge-sheet is totally silent regarding the contention of the prosecution. Filing of charge-sheet is itself the change of circumstances.

17. The learned Advocate for the applicant further submitted that, the applicant is suffering from many diseases and disorders. He is suffering from Idiopathic Parkinson's disease. Considering the age medical facility are to be required.

18. The learned Advocate for applicant further submitted that the applicant will not hamper or tamper with prosecution evidence. Applicant is arrested on 20/02/2024. Further presence of applicant behind bars is not necessary. The applicant is permanent resident of Ahmednagar. He will not abscond. Applicant is ready to abide by each and every condition imposed by this Court and hence prayed to release

him on bail.

19. Learned Advocate for applicant has placed his reliance on the following authorities.

(i) Sanjay Chandra Vs.CBI, MANU/SC/1375/2011.
(ii) Satendra Kumar Antil Vs.CBI, MANU/SC/0851/2022.
(iii)Gurucharan Singh and Ors. Vs. State (Delhi), MANU/SC/0420/1978.
(iv) Ram Govind Upadhyay Vs. Sudarshan Singh & Ors. MANU/SC/0203/2002.
(v) Javed Gulam Nabi Shaikh Vs.State of Maharashtra and others, 2024(3)Crimes 1 (SC).

20. The learned APP strongly opposed the application vide Say Exh.50-A on the ground that, the offence is very serious in nature. It is contended that the accused persons were working as the Chairman, the members of Board of Directors, officials and servants of the Nagar Urban Bank Ltd., Ahmednagar. Present applicant-accused was working as Assistant Chief Manager, Loan Section, in Nagar Urban Bank. He has committed the crime by colluding with the Board of Directors, officers, servants and borrowers of the Bank. Name of the Applicant is specifically inculpated in the Forensic Audit which was conducted in which it was transpired that there is misappropriation and embezzlement of Rs.72,75,22,558/- and accused persons including applicant are involved in it.

21. It is further submitted by learned APP that, applicant was working as Assistant Chief Manager in Loan Section of the Bank. The accused persons including applicant were working on the responsible posts in the Bank. Accused persons in collusion with the borrowers and other accused prepared fake, forged and bogus documents including loan documents and valuation reports etc. Accused persons sanctioned

the loan proposals indiscriminately by flouting the prescribed norms, rules and regulations and committed serious irregularities in other transactions also and ultimately defalcated huge amounts of the members and investors of the Bank. Accused persons including applicant in collusion with each other and in furtherance of their common intention misappropriated and defalcated the huge amount of the Nagar Urban Bank and derived undue monetary benefits from the same. Total amount of Rs.72,75,22,558/- has been withdrawn from the Bank which is detected to be misappropriated amount relating to disputed loan transactions. Amounts ranging from Rs.1000/- to Rs.1,00,000/- have been deposited in the account of applicant and he has withdrawn it in cash. Loan amounts are not yet recovered. RBI has cancelled the license of the said Bank owing to serious illegalities and irregularities in the banking transactions.

22. It is further contended that the applicant in collusion with other accused, has committed the crime. A forensic audit of said Bank has been conducted. The defalcated amount is not yet recovered. In connivance with other accused i.e. members of Board of Directors, officers and borrowers the applicant has committed the serious offence. By hand in gloves with other accused persons and borrowers, the applicant procured huge amount from disputed transactions. This is nothing but the fraud and misappropriation of public funds committed by the bank authorities and accused persons.

23. It is further submitted by learned APP that, the embezzled and misappropriated amount is yet to be recovered. The applicant in collusion with other accused misappropriated and defalcated huge amount of the Nagar Urban Bank. Defalcated amount is yet to be

recovered. Applicant and other accused persons may have purchased properties in their names or in the names of their friends or relatives. If the applicant is released on bail he will dispose off the evidence including the properties acquired in the names of his relatives and friends.

24. Learned APP further submitted that, when accused Sachin Diliprao Gaikwad and Mukesh Chandrakant Korade have been granted bail, the forensic audit was not completed and Section 3 of MPID Act was not added in the Crime. Therefore, ground of parity cannot be invoked to release the applicant on bail.

25. Learned APP further submitted that, the accused persons including the applicant have committed defalcation of huge amounts of Nagar Urban Bank. It is a public money. The Reserve Bank of India has imposed restrictions on the said Bank. Hard-earned amounts of poor investors have been duped by the accused persons. Investigation is still in progress. If the applicant is released on bail, he will create obstacles in the investigation. The accused may tamper and hamper the prosecution evidence and witnesses and will not remain present for trial if released on bail. Considering the seriousness of the offence, learned APP prayed to reject the application.

26. Learned APP placed his reliance on the following authorities.

(i) Tarun Kumar Vs. Assistant Director of Directorate of Enforcement, SLP (Cri) No.9431/2023.
(ii) Y. S. Jagan Mohan Reddy Vs. Central Bureau of Investigation,
(iii) Nimmagadda Prasad Vs. Central Bureau of Investigation,
(iv) Gautam Khndu Vs. Directorrate of Enforcement, State of Bihar and another Vs. Amit Kumar @ Baccha Rai.

27. Depositors and Liquidator have also appeared through their Advocates, submitted Protest Application with documentary evidence, resisting the Bail application on various grounds. They have also filed voluminous documents on record.

28. Heard both the sides at length and also perused the documents filed on record. Also heard learned Advocate for the Liquidator and the learned Advocate for the depositors at length.

29. Record shows that, the present applicant-accused was working as Assistant Chief Manager in Nagar Urban Bank. During course of his duties, the applicant has committed gross irregularities and illegalities and committed the crime by colluding with the Board of Directors, officers, servants and borrowers of the Bank.

30. During the tenure of 01.10.2013 to 30.06.2022 he recommended many loan proposals and sanctioned them. The loan proposals were sanctioned upto the maximum limits without looking to the documentary and factual aspect. If we consider the version of the complainant and other related aspects, then it is crystal clear that the present applicant is directly involved in this crime.

31. Name of the Applicant is specifically inculpated in the Forensic Audit which was conducted, in which it was transpired that there is misappropriation and embezzlement of Rs.291,25,61,000/- and accused persons including applicant are involved in it.

32. It is further transpired that the Accused persons sanctioned the loan proposals indiscriminately by flouting the prescribed norms,

rules and regulations and committed serious irregularities in other transactions also and ultimately defalcated huge amounts of the members and investors of the Bank.

33. Accused persons including applicant in collusion with each other and in furtherance of their common intention misappropriated and defalcated the huge amount of the Nagar Urban Bank and derived undue monetary benefits from the same.

34. Total amount of Rs.72,75,22,558/- has been withdrawn from the Bank which is detected to be misappropriated amount relating to disputed loan transactions. Amounts ranging from Rs.1000/- to Rs.1,00,000/- have been deposited in the account of applicant and he has withdrawn it in cash.

35. Accused persons in collusion with the borrowers and other accused, prepared fake, forged and bogus documents including loan documents and valuation reports etc. Accused persons sanctioned the loan proposals indiscriminately by flouting the prescribed norms, rules and regulations and committed serious irregularities in other transactions also.

36. RBI has cancelled the license of the said Bank owing to serious illegalities and irregularities in the banking transactions. Loan amounts are not yet recovered.

37. The embezzled and misappropriated amount is yet to be recovered. The applicant in collusion with other accused misappropriated and defalcated huge amount of the Nagar Urban Bank.

Defalcated amount is yet to be recovered. If the applicant is released on bail he will dispose off the evidence including the properties acquired in the names of his relatives and friends.

38. Huge public money is involved in this case. Poor investors have been duped of their hard-earned money.

39. It *prima facie* appears that, the role of the applicant is specific and crystal clear that he played prime and crucial role in the commission of offence. Hence, *prima facie* it seems the ingredients of the offence are made out against the applicant.

40. Under such circumstances, looking to the seriousness of the crime and active participation and role played by the applicant in commission of the crime, *prima facie* involvement of the applicant is established. *Prima facie*, his alleged defences do not hold any water.

41. From the above facts and circumstances, it is clear that accusations against the accused are well founded. The offence is serious in nature and allegations against applicant are specific and clear. Moreover, *prima facie* evidence is against the applicant. Investigation is still in progress. Other accused are still absconding. There appears to be substance in the apprehension of prosecution that the applicant will indulge in the commission of similar offences and he may hamper and tamper with prosecution evidence and witnesses, if released on bail.

42. Ground of parity cannot be invoked to release applicant on bail since the cases of accused who are already released on bail had the different and distinct features. In the given facts and circumstances, the

authorities relied upon by the applicant are not helpful to the applicant to release her on bail.

43. This is the case relating to an economic offence. Huge public money is involved. As per the mandate given by Hon'ble Supreme Court, accused involved in such cases are to be dealt with iron hands and no leniency is to be shown to them.

44. Considering the seriousness of the offence and specific accusations attributed against the applicant and possibility of his tampering and hampering with the prosecution evidence and witnesses, I pass the following order.

: ORDER :

Application is rejected.

Date : 31/08/2024.

(**Prashant R. Sitre**)
Additional Sessions Judge,
Ahmednagar.