IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 187 OF 2023

Satish Chandra Jhanwar ****....Applicant/ Accused****

: Versus :

Central Bureau of Investigation,
Bank Securities Fraud Branch, Mumbai ****....Respondent****

WITH
CRIMINAL REVISION APPLICATION NO. 188 OF 2023

Sh. Prakash Chandra Srivastav ****....Applicant/ Accused****

: Versus :

Central Bureau of Investigation,
Bank Securities Fraud Branch, Mumbai ****....Respondent****

Mr. Pradeep M. Havnur *a/w. Ms. Prajakta Jagtap and Mr. Shreyal Chaudhary, for the Applicants.*
Mr. *Kuldeep Patil,* *for the Respondent-CBI.*

Ms. Shilpa K. Gajare-Dhumal, *APP for State.*

CORAM : SANDEEP V. MARNE, J.

Dated : 5 August 2024.

P.C. :

1) Revisionary jurisdiction of this Court is invoked to set up a challenge to the orders dated 23 November 2022 passed by the Special

Judge, (CBI), Mumbai rejecting discharge applications filed by the Applicants. Applicant in Civil Revision Application No. 187/2023-Satish Chandra Jhanwar is arraigned as Accused No.1 and Applicant-Prakash Chandra Srivastava in Civil Revision Application No. 188/2023 is arraigned as Accused No.14 in CBI Special Case No. 19/2015 arising out of Crime No.RC 3(E) /2013, BSFC, CBI, Mumbai for the offences punishable under Sections 120-B, 420, 467, 468, 471 of the Indian Penal Code and Section 13(2) r/w. 13(1)(d)of the Prevention of Corruption Act, 1988.

2) I have heard Mr. Havnur, learned counsel for the Applicants. He would submit that the learned Judge has erroneously recorded findings of existence of grave suspicion, as well as availability of sufficient material to frame charges against Applicants. He would submit that perusal of the orders passed by the learned Judge, as well as the material on record indicates that opinion of existence of grave suspicion could not have been recorded. Similarly, there is no material available against Applicants for framing charges against them. Inviting my attention to the written submissions filed before the learned Special Judge, Mr. Havnur would submit that though non-involvement of Applicants in the crime was clearly demonstrated therein, neither CBI chose to deal with the same nor the learned Special Judge has even considered the said submissions while passing the impugned orders. Taking me through the flow chart of loan proposal of M/s. Biotor Industries Ltd., he would submit that the decision with regard to the sanction of loan is taken by the higher officials and that Applicants are not really concerned with the various decisions for sanction and disbursal of the credit facilities to the borrower. He would further

submit that in similar circumstances involving a bank fraud, the very same learned Judge has infact allowed discharge application of several accused in CBI Special Case No.43/2018 by order dated 29 July 2022. That the reasonings adopted by the learned Judge for discharging the said accused from CBI Special Case No.43/2018 are squarely attracted in the present case as well. That in absence of grave suspicion, mere existence of few suspicious circumstances, cannot be a ground for framing charge against Applicants. He would therefore submit that the order passed by the learned Special Judge deserves to be set aside.

3) The applications are opposed by Mr. Patil, the learned counsel appearing for the Respondent-CBI. He would take me through the exact role alleged against each of the Applicants in the entire transaction and would submit that there is sufficient material available on record for framing charges against them. He would pray for dismissal of the Revision Applications.

4) Having considered the submissions canvassed by the learned counsel appearing for the parties, it must be observed at the outset that the chargesheet filed by the CBI is not placed before me and therefore it is not demonstrated from the chargesheet as to how a case for absence of grave suspicion or absence of sufficient material can be inferred in the present Revision Applications. In the absence of exact accusations in the chargesgeet, this Court is left with no other alternative but to examine the role of the Applicants from the reply filed by the CBI opposing the present Revision Applications. For the sake of brevity, the accusations against the

Applicant, Satish Chandra Jhanwar in the reply filed by the CBI is reproduced below :

> 5. That, during the investigation it was further revealed that in pursuance of the said Criminal Conspiracy representatives of M/s. Biotor Industries Ltd., (A-1) met Sh. Ramnath Pradeep (A-13) and requested for Short Term Loan of Rs. 100 crores to Finance Farmers/VLAs against their receivables on an unsigned plain paper, introducing a Scheme involving VLAs/ M&C, which is not in the bank's loan policy. In Pursuance of the same Criminal Conspiracy Sh. Ramnath Pradeep, ED, Priority Sector, Central Office, on 4.7.2009 advised the Priority Sector department to contact the borrower for the said purpose. On 8.7.2009 he further instructed the department to expedite the proposal to catch the Management Committee meeting on 11.7.2009, while extending the due date of PC availed from 270 days to 360 days and despite the knowledge that the company was suffering financial stress since early 2008 while he himself had not sanctioned an adhoc facility requested by the company in the end of 2008. Based on the above instructions, Sh. PC Srivastava, GM, PS Department, Central Office, Central Bank of India, Mumbai and Sh. SC Jhanwar, DGM, (Applicant/Accused) PS Department, Central Office, Central Bank of India, Mumbai had advised the CFB branch, Mumbai on the same lines. On 8.7.2009 the CFB branch, Mumbai had prepared an Executive Brief for the sanction of Short Term Loan facility of Rs. 50 crores to Finance Farmers supplying castor seeds to M/s. Biotor Industries Ltd.
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> 6. That during the investigation it was reveled that in pursuance of the same criminal conspiracy Sh. S. C. Jhanwar, DGM, PS-Department, Central Office, Central Bank of India, Mumbai instructed the CFB Branch, Central Bank of India,

Mumbai to carried out some changes in the proposal, hence the CFB prepared another Executive Brief dated 18.7.2009 incorporating the changes as per instructions of Sh. S. C. Jhanwar. The Scheme was earlier designed in a manner so that the bank would have a hold on the farmers by entrusting all the basic formalities to be done by the bank. That in pursuance of the above said criminal conspiracy Applicant/accused with dishonest intention got the proposal dated 08.07.2009 amended. The Amended Executive Brief was dated 18.7.2009 in which the recommendation was for sanction of Sales Bills Discounting facility. The amended proposal was less transparent and involved higher risk and further diluted the diligence to be done by the bank before the sanction / disbursement specially relating to KYC Norms, and the amended proposal was more suited the company than the farmer, which facilitated the subsequent fraud. This was also termed as Direct Finance Agriculture.

7. That during the investigation it was revealed that in pursuance of the above said criminal conspiracy Sh. S C Jhanwar (A-15), DGM, the Priority Sector Department, Central Office got prepared another Executive brief with cover page dated 20.7.2009, 22.7.2009 and 28.8.2009 signed by Sh. P C Srivastva (A- 14), GM, Priority Sector Department, Central Office and Sh. S C. Jhanwar (A- 15), DGM, Priority Sector Department, Central Office for placing before the Management Committee. The Executive Brief with cover page dated 20.7.2009, 22.7.2009 and 28.8.2009 were designed in a manner to unduly benefit the company and not the farmer.

8. That, during the Investigation it was revealed that in pursuance of the above said criminal conspiracy Sh. B. C. Jhanwar, DOM, Priority Sector Department had fraudulently and dishonestly introduced some more changes wherein the conditions included were to the effect, among others, that accounts should be opened in the name of the farmers on the basis of the Credit Bill and the amount of the loan was to be

decided on the basis of per acre yelld, cultivated area record in the record of rights and the pre- determined sale price, but the loan proceeds were to be credited into the M&C Account of the Mis. Biotor Industries Ltd., maintained at CFB for the said particular purpose and not to the farmers account.

9. That, during the investigation it was revealed that in furtherance of the said conspiracy with the bank officials of Central Bank of India including the aforesaid applicant/accused, the company got sanctioned the requested loan facility and opened 1597 farmer loan accounts within 3 days, by working on general holidays like Saturday and Sunday as well as on Holidays of Dasara on basis of forged and fabricated documents submitted by the company. In furtherance of this conspiracy, the company through its representatives and in conspiracy with the bank officials including the aforesaid applicant/accused got the loan disbursements done in its own accounts and thereafter to 10 different persons. These loan disbursements were eventually routed back by the company and the proceeds did not reach the farmer beneficiaries thus resulting in wrongful loss to the an extent of Rs. 56.25 Coroe to the Central Bank of India and wrongful gain to company and its representatives/ unknown others.

5) For the sake of brevity, the accusations against Applicant-Prakash Chandra Srivastava are not reproduced from the CBI's reply.

6) From the above accusations, it cannot be *prima-faci*e said that the Applicants had absolutely no role to play in the matter of sanction of the credit facilities to the concerned borrowers. That initially the proposal appears to have been pushed by Ramnath Pradeep, Executive Director. It also appears that the lower hierarchical Officers have apparently played active role in ensuring that the credit facilities are sanctioned to the concerned borrowers. The exact role played by Applicants in the manner of

accepting and sanctioning the credit facilities is borne out from the reply filed by the CBI.

7) After considering the accusations sought to be levelled against the Applicants, it cannot be said that there is total absence of material even to raise a grave suspicion against them. Whether the accusation levelled against them are correct or not and whether the Applicants actually played any active role in the matter of sanctioning of credit facilities to the borrower is something which needs to be decided during the course of the trial. CBI must be given an opportunity to lead evidence and make an attempt to prove the charges levelled against Applicants.

8) In the circumstances, no case is made out for interference in the order passed by the learned Special Judge. The Civil Revision Applications are **dismissed.** It is however clarified that nothing observed in the order shall be considered by the learned Special Judge while deciding the case finally.

[SANDEEP V. MARNE, J.]

NEETA SHAILESH SAWANT

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