

Court No. - 87

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 54570 of 2022

Applicant :- Vipin Kumar

Opposite Party :- C.B.I

Counsel for Applicant :- Syed Faiz Hasnain, Syed Riyaz Askari

Counsel for Opposite Party :- Sanjay Kumar Yadav

Hon'ble Dinesh Kumar Singh, J.

1. Heard Sri Sagheer Ahamd, learned Senior Advocate assisted by S/Sri Syed Faiz Hasnain and Syed Riyaz Askari, learned counsel for the accused-applicant as well as Sri Sanjay Kumar Yadav, learned counsel for the Central Bureau of Investigation (for short 'CBI') and perused the record.

2. The present application under Section 439 Cr.P.C. has been filed seeking bail in RC No.1202018A003 of 2018, under Sections 120-B read with 409 and 420 IPC and Section 120-B read with 13(1)(c and d) read with 13(2) of Prevention of Corruption Act, Police Station CBI/ACB, Ghaziabad, District Ghaziabad.

3. The FIR No.RC1202018A0003 was registered by the CBI/ACB, Ghaziabad on 28.2.2018 under Sections 120-B, 409, 420, 467, 468 and 471 IPC, Section 13(2) read with 13(1)(d) of Prevention of Corruption Act and Section 66 read with 43 of the Information Technology Act. The persons, who are arrayed as accused, are Vipin Kumar (Present accused-applicant), the then Branch Manager, Navin Kumar Sharma, the then Assistant Manager, Soubir Singh, the then Office Attendant of the Prathama Bank, Nagli Tehsil Hasanpur, District Amroha and Jitendra Arya, who was a business facilitator of the bank and was employed on contractual basis. The CBI after investigating the office, has filed the charge sheet.

4. During the year 2016, accused-applicant, the then Branch

Manager, N.K. Sharma, the then Assistant Manager and Jitendra Arya allegedly entered into a criminal conspiracy among themselves and in furtherance of criminal conspiracy, siphoned off the bank funds and the bank suffered the total loss of Rs.14,54,01,726/-.

5. It is further alleged that in furtherance of criminal conspiracy, accused-applicant and Navin Kumar Sharma, Branch Manager and the Assistant Manager by using their used IDs of the bank, fraudulently and dishonestly transferred the funds of 219 Prathama Kisan Credit Card Loans to the accounts opened by them. It is also alleged that the said money was transferred in the accounts of the family members of the accused-applicant and some amount as also transferred in the account of the co-accused Jitendra Arya.

6. The investigation revealed that 219 Kisan Credit Card Loans were sanctioned without following the procedure prescribed and paid amount was fraudulently withdrawn and the bank had to reimburse the amount to the farmers from whose accounts the money was transferred by the Branch Manager and the Assistant Manager.

7. Learned counsel for the accused-applicant submits that allegation against the accused-applicant and other co-accused is of hatching criminal conspiracy of committing the offence under Sections 120-B, 409, 420, 467, 468 and 471 IPC, Section 13(2) read with 13(1)(d) of Prevention of Corruption Act and Section 66 read with 43 of the Information Technology Act. He further submits that two other accused namely Navin Kumar Sharma, the then Assistant manager and Jitendra Arya, who was a business facilitator from outsourcing on temporary basis have been enlarged on bail by this Court vide orders dated 23.7.2022 and 3.2.2022

passed in Criminal Misc. Bail Application Nos.18172 of 2022 and 34426 of 2022 respectively. He, therefore, submits that the accused-applicant is also entitled to be enlarged on bail on the ground of parity.

8. On the other hand, learned counsel for the CBI has opposed the prayer for bail and has submitted that the present accused-applicant was the head of the bank. He was the trustee and custodian of the bank's money. The Assistant Manager's login ID was misused and other co-accused Jitendra Arya role is not very serious, therefore, they have been enlarged on bail by this Court. Apart from it, co-accused Jitendra Arya has paid back Rs.4,53,000/- as a condition precedent for granting him bail which amount was allegedly transferred in his account. He also submits that the role played by the accused-applicant cannot be compared to the roles of co-accused Navin Kumar Sharma and Jitendra Arya.

9. I have considered the submissions advanced on behalf of the learned counsel for the parties and perused the record.

10. The accused-applicant was the Branch Manager of the bank. He sanctioned 219 Kisan Credit Card Loans without following the procedure prescribed and, thereafter, fraudulently transferred the said amount in several accounts opened by him and allegedly misappropriated the amount, and the bank had to reimburse the amount to the farmers from whose accounts the money was transferred by the accused-applicant. The bank had suffered loss to the tune of Rs.14,54,01,726/- because of the criminal conspiracy hatched by the accused-applicant along with other co-accused. A person who is custodian and the trustee of the bank, himself got involved in committing banking fraud.

11. Looking at the nature of offence, evidence available against the

accused-applicant and also the fact that he was the Branch Manager and he in furtherance of criminal conspiracy, transferred the amounts of 219 Kisan Credit Card loans to the accounts of his relatives to the tune of Rs.14,54,01,726, this Court does not deem it appropriate to enlarge the accused-applicant on bail at this stage.

12. Bail application is accordingly ***rejected***.

Order Date :- 6.2.2023

Rao/-