

IN THE HIGH COURT OF BOMBAY AT GOA.

(LD-VC-BA-59/2020)

Ameet Paresh Savant,
Presently lodged at Central
Jail, Colvale

...Applicant

Vs

State of Goa and anr.

...Respondents

Shri Nitin Sardessai, Senior Advocate with Shri Shivam Fadte, Advocate for the applicant.

Shri Pravin Faldessai, Addl. Public Prosecutor for the respondents.

Coram:- DAMA SESHADRI NAIDU,

Date:4th November 2020.

PC.

The applicant is the accused in Crime No.9/2019, registered by the Economic Office Cell of Panaji Police Station. The alleged offence is said to be under sections 406, 409, 468 and 425 of IPC, besides sections 3 and 5 of the Goa Protection of Interest of Depositors (in Financial Establishment) Act, 1999 ("the Depositors Act").

2. The applicant was arrested on 21.8.2019 when the complaint was lodged. Ever since, he has been in judicial custody for over one year. Police filed the chargesheet on 16.11.2019 in Special Criminal Case (Economic Offence) No. 13/2019 before the Sessions Court Panaji. Through its order dated 24.9.2020, the trial Court rejected the bail. Under these circumstances, the applicant has filed this bail application under Section 439 of Cr.P.C.

3. Shri Nitin Sardessai, the learned Senior Counsel for the applicant, has submitted that the applicant is an ex-banker. After resigning to his post, he became an entrepreneur and started dealing in shares and securities. According to him, a few people known to him invested with him. The applicant opened Demat accounts in their representative names and accounted for their investments. But the complaint is the applicant's ex-colleague in a private bank. He too is said to have invested about Rs.80 lakhs with the applicant.

4. To elaborate, Shri Sardessai submits that because of certain personal and professional constraints; the complainant could not have the Demat account opened either in his name or in the name of his family members. Therefore, though the investment was shown on record in their names, the Demat account continued to be that of the applicant. As to his failure to honour the commitment, the applicant faced, according to the learned Senior Counsel, market crash. Alarmed by the momentary delay, the complainant raised the alarm and lodged a police complaint. Then, that set up a chain reaction, and there was a run on the applicant's establishment.

5. That said, the learned Senior Counsel affirms that though the investment was Rs.80 lakhs, the complaint already received Rs.1.20 crore from the applicant. And it is a matter of record.

6. Shri Sardessai has also submitted that the police have completed the investigation and filed the chargesheet. All along, until recently, the applicant has never applied for bail. It was on a "high moral ground" that the law should take its own course; nevertheless, now, the deteriorating health of his aged parents compelled him to apply for the bail. The father is in his 80s and the mother in her late 70s. They constantly need the applicant's care and

attention. So, the learned Senior Counsel has urged this Court to impose suitable conditions and enlarge the applicant on bail.

7. On the other hand, Shri Pravin Faldessai, the learned Additional Public Prosecutor, has vehemently contended that the applicant has indulged in a white-collar crime: financial fraud. To elaborate, he has submitted that the applicant had not secured any licenses from the statutory authorities such as the Reserve bank of India before he started his trade. About the prospects of the applicant getting released on bail, Shri Phaldessai insists that though police have filed the chargesheet, still they are unsure about the applicant's all other financial transactions. According to him, the applicant may still have access to sensitive data which he can tamper with or delete once he comes out on bail and has access to the computers even online. Therefore, the learned APP has urged the Court not to entertain the bail application.

8. Heard Shri Nitin Sardessai, the learned Senior Counsel for the applicant, and Shri Pravin Faldessai, the learned Additional Public Prosecutor for the respondents.

9. Indeed, the applicant faces grave charges, attracting provisions like sections 406, 409, 468 and 425, besides sections 3 and 5 of the Depositors Act. At this stage, this Court cannot consider the defence the applicant has advanced. It has to go by the allegations in the complaint and the investigation so far carried out by the prosecution.

10. That said, the fact remains that the police have already filed the chargesheet, and the applicant has been in judicial custody for about 15 months. Initially, when the applicant was arrested, he was in police custody for two weeks. After the custodial interrogation, the police did not want the custody period extended. It is an admitted fact that the applicant has no

criminal antecedents, but he has other cases pending, lodged by various other investors; they all relate to the applicant's trading in shares. If the police proceed in those matters, this disposition does not come in the way, however.

11. If I confine the discussion to the case on hand, I am required to balance the competing claims and the interest of the applicant and the prosecution. As to the mitigating circumstances, I may note that the investigation was completed and the chargesheet was filed; the applicant has already faced custodial interrogation and has been in judicial custody for over 15 months. On the other hand, there is an apprehension that he may threaten or induce the witnesses or tamper with the data. I reckon those two aspects can be taken care of with stringent bail conditions.

12. As to the prospects of his interfering with the witnesses, I reckon much of the allegations are matters of record. And I am told that the police have already sealed the applicant's office and possessed all the computers used in the business. Besides, the applicant may as well be asked to attend the jurisdictional police station at frequent intervals so that police can monitor his movement and, thus, check the prospects of his interfering with the witnesses or the trial.

13. As to data protection, the police had seized the material, including the computers. At any rate, whenever the forensic experts find it difficult to access the stored either on the computers or online, they may require the applicant to share the password or provide access to them. If the police at any point in time reckon that the applicant has been deliberately denying access or trying to obfuscate the police's access to the data, they may apply to this Court for cancellation of bail.

14. I, therefore, allow this bail application subject to the following conditions:

ORDER

(i) The applicant is directed to be released on bail on his executing P.R Bond for Rs.50,000/- and on his furnishing two sureties out of which one local surety, each for the like sum, to the satisfaction of the learned Sessions Judge, Panaji.

(ii) The applicant shall visit the jurisdictional police station twice a week--Monday and Thursday--at 11.00 am.

(iii) The applicant should not leave the State of Goa, without prior permission of the learned Sessions Judge, Panaji.

(iv) The applicant shall attend the hearing of the case on the dates fixed by the trial Court.

(v) The applicant shall not influence, induce, threaten, or coerce the witness; nor should he abuse the process.

(vi) The applicant shall not indulge in any further crimes, similar or different.

(vii) The applicant's failure to abide by these conditions will entail the prosecution to apply for the cancellation of bail now granted to the applicant.

(viii) The Bail Application stands allowed.

DAMA SESHADRI NAIDU, J.