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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 27.07.2023
Pronounced on: 31.07.2023*

+ **BAIL APPLN. 1926/2023**

SHRI RAJIV KUMAR NIGAM Petitioner

Through: Mr. Devraj Singh and Ms. Snehlata Chaudhary, Advocates

versus

STATE Respondent

Through: Mr. Amol Sinha, ASC for the State with Mr. Kshitiz Garg, Mr. Ashvini Kumar and Ms. Chavi Lazarus, Advocates and with SI Gaurav, P.S. EOW.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C') has been filed on behalf of applicant seeking bail in case FIR bearing no. 56/2018, registered at Police Station EOW, South East, Delhi, for the offences punishable under Sections 420/409/406/468/471/120B of the Indian Penal Code, 1860 ('IPC').
2. Briefly stated, the present FIR was registered on 16.03.2018 on the basis of complaint filed by then branch head of Punjab National



Bank, Jangpura, Bhogal, New Delhi who had alleged that one Mr. Harjeet Singh (co-accused) i.e. sole proprietor of M/s. GTB Enterprises had obtained a cash credit facility to the tune of Rs. 9.5 lakhs from the complainant bank in the name of his firm, which was sanctioned under the scheme of 'Credit Guarantee Fund Trust for Micro and Small Enterprises'. It was stated that the said facility was secured by hypothecating raw materials such as iron rods, steel rods, finished goods etc. However, during the investigation, no such unit was found at the given address and the rent agreement given by co-accused Harjeet Singh was found to be fake. As per prosecution, it was discovered during the course of investigation, while examining the bank statements of M/s. GTB Enterprises, that the amount in question was withdrawn by the borrower and transferred to various accounts which were either the shell companies or individuals and the same were used to show fake business transactions. It is alleged that the applicant/accused, who was the then Manager of complainant Bank, was responsible for sanctioning the credit facility to co-accused and it was alleged that he had sanctioned the loan to a non-existing firm and he had failed to monitor routing of sales during post-sanction follow up. It is further the case of prosecution that the applicant/accused himself used to visit the concerned properties and carry out the valuation of the same before sanctioning loans, and he himself used to look after each and every document which was relevant for the purposes of sanctioning the loan. On these allegations, the present FIR was registered.



3. Learned counsel for the accused/applicant states that the applicant was working as branch manager of the complainant Bank at the time of alleged offence but the documents pertaining to the loans obtained by the customers had to be checked by other persons also before it reached him. It is argued that applicant has been falsely implicated in the present cases on the basis of statements of co-accused persons and the prosecution has also not shown any money trail *qua* the applicant. It is also stated that though the case pertains to the year 2018, the chargesheet was filed on 24.01.2023, and even the charges are yet to be framed as the State is seeking adjournment on each date on one ground or the other. It is stated that the accused is in judicial custody since 28.10.2022 and several other co-accused were not even arrested in the present case. It is further stated that applicant has been granted bail in other cases registered at same point of time on the basis of similar allegations. It is therefore prayed that bail be granted to him.

4. Learned ASC for the State, however, argues that the allegations against the accused are serious in nature and the applicant had misused his official position for which six other FIRs are also pending against him. It is stated that the loans sanctioned by the applicant had become Non-Performing Assets (NPA) and during investigation, it was found that the customers had tendered false and fabricated documents on the basis of which loans had been sanctioned by the applicant.

5. The arguments addressed by both sides have been heard and material on record has been perused.



6. After hearing arguments and going through the case file, this Court is of the opinion that the present accused/applicant was the branch manager of the complainant Bank and some of the loans/credit facilities granted by him had become NPA since it was found that the customers had tendered false and fabricated documents in support of their loan applications. In a nutshell, there has been default in repayment of loan and the case of prosecution is that a branch manager's duty is to personally check all the relevant documents and physically verify the mortgaged property prior to sanctioning of loan and the applicant herein had failed to do so and caused a loss of Rs.9.5 lakhs to the complainant Bank. However, as per the case of applicant, he was not the only person responsible for scrutiny of the documents but as per the prosecution, another co-accused had informed that applicant used to do all the work himself and merely direct other bank staff to put their signatures on the documents as per requirement.

7. Be that as it may, it is not disputed that accused/applicant had served the complainant Bank for a long period of time and had retired on 31.03.2016 and nothing adverse had come against him on record, however, the present FIR was registered two years thereafter. The investigation in the present case is complete and the chargesheet has already been filed against the accused persons, and the charges are yet to be framed. The applicant is aged about 67 years, having roots in society, and has been in judicial custody since 28.10.2022.

8. Considering the overall facts and circumstances of the case, and the fact that investigation already stands complete and trial will



take some time to conclude and pre-trial incarceration will serve no purpose, this Court is inclined to grant regular bail to the applicant/accused on his furnishing personal bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the Trial Court/Successor Court/Link Court/Duty Judge concerned on the following terms and conditions a:

- i) The applicant shall remain available on mobile phone numbers, shared by him with the Police.
- ii) The applicant shall surrender his passport, if not surrendered, and shall not leave the country during this period without permission of Trial Court.
- iii) The applicant shall not directly or indirectly make any attempt to influence the witnesses.
- iv) In case of change of residential address/contact details, the applicant shall promptly inform the same to the concerned Court.

9. Accordingly, the bail application stands disposed of.

10. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

11. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JULY 31, 2023/zp