

RESERVE BANK OF INDIA
v.
GM, COOPE. BANK DEPOSIT A/C HR. SHA & ORS.
(Criminal Appeal No. 1486 of 2004)

AUGUST 12, 2010

[HARJIT SINGH BEDI AND CHANDRAMAULI KR.
PRASAD, JJ.]

Code of Criminal Procedure, 1973:

s.439 – Bail granted by Magistrate to Ex-Chairman of a Co-operative Bank in a case of misappropriation of the amounts deposited in the Bank – Order challenged by depositors – High Court though not cancelled the bail, but directed the Bank to pay the amounts received by it from several accused persons to the poor depositors who have invested not more than Rs.10,000/- with the Bank – Reserve Bank of India challenging the said directions – HELD: Far reaching consequences of the directions of the High Court are way beyond the scope of an application for bail filed by an accused u/s 439 CrPC and the High Court, as much as anyone else, must stay confined to the issues relevant to the matter before it – It was thus not open to the High Court to pass orders which could affect the working of Banks all over the country – The orders dated 20.12.2002 and 7.2.2003 passed by the High Court set aside – Banks/Banking – Banking Regulation Act, 1949.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1486 of 2003.

From the Judgment and order dated 07.02.2003 of the High Court of Gujarat at Ahmedabad in Criminal Miscellaneous Application No. 284 of 2003.

A WITH

Crl. A. No. 24 of 2005

B Basava Prabhu S. Patil, Kuldeep S. Parihar, H.S. Parihar, Hemantika Wahi, Rajiv Shankar Dvivedi, H.A. Raichura for the appearing parties.

The following order of the Court was delivered

ORDER

C 1. We have heard learned counsel for the appellant which is the Reserve Bank of India in this case.

D 2. The appellant is aggrieved by the order dated 20th of December, 2002 whereby a direction has been issued by the learned Single Judge in an application for bail under Section 439 of the Code of Criminal Procedure made by an accused that depositors who had made deposits of less than Rs. 10,000/- should have their deposits released as and when funds were received by the respondent No. 3 – cooperative bank.

E 3. In this case, an application for bail was made by some of the accused in Cr. No. 121/2002 of Naranpura Police Station in respect of an offence alleged to have been committed by respondent No. 3, the Ex-Chairman of the Bank, respondent No. 4. Bail was granted by the Magistrate vide order dated 22nd February, 2002. This order was challenged by the depositors before the High Court. The High Court, however, did not cancel the bail granted to respondent No. 3 but made a consequential order on 20/12/2002. This order is reproduced below:-

G "At this stage, learned counsel Shri Prajapati
H appearing for the depositors rightly made a grievance that so far poor depositors are not paid by the bank out of the amount, which has been received by the bank. If it is so, then it is most unfortunate Mr. Munshaw tried to explain that the said amount is used by paying salary etc. of the bank

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employees. This amount should not have been used by the bank authorities for any other purpose except distributing the same amongst the poor depositors. Mr. Prajapati for the depositors association has pointed out that there are more than 75,000 depositors. Out of that, number of depositors are poor persons who have invested their life time saving in the bank. He, therefore, requested the court that the bank should start paying the amount to the depositors who have invested not more than Rs. 10,000/- at the first instance. There is lot of substance in what has been submitted by Mr. Prajapati for the depositors. Accordingly, the bank should start distributing the amount, which is so far recovered by them from the accused under the interim orders of this Court. On the next date of hearing the bank shall furnish the details of the money being paid to the poor depositors, who have invested not more than Rs. 10,000/- at the first instance. On the next date of hearing, all the accused as well as I.O. And Administrator of the bank shall personally remain present at 2:15 P.M. before this Court."

4. The Reserve Bank of India has challenged the operative portion of this order as being beyond the scope of an application under Section 439 of the Code of Criminal Procedure and as it infringes on several provisions of the Banking Regulation Act, 1949. It has been urged that these facets had been pointed out to the learned Single Judge in an application dated 13th January, 2003, which too had been rejected on 7th February, 2003.

5. The respondents before us have been served but only the accused, respondent No. 3, who has already been granted bail is before us. The learned counsel contends that as far as he is concerned, he has nothing to say in this matter as his bail has been confirmed.

6. We are of the opinion that the far reaching consequences of the directions of the High Court are way

- A beyond the scope of an application for bail filed by an accused under Section 439 of the Code of Criminal Procedure and the High Court, as much as anyone else, must stay confined to the issues relevant to the matter before it. It was thus not open to the High Court to pass orders which could affect the working
- B of Banks all over the country. It has been pointed out by Mr. Basava Prabhu S. Patil, the learned senior counsel for the appellant that it is for this reason that the Reserve Bank of India had filed this appeal. We, accordingly, allow this appeal and set aside the orders dated 20th December, 2002 and dated
- C 7th February, 2003.

R.P.

Appeal allowed.