



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.2090 OF 2024**

Manoj Vasumal Motiyani,  
Age: 35 years, Occu.: Business,  
R/o.: Near Maruti Mandir, Savedigaon,  
Tq. Nagar, Dist.: Ahmednagar

**.. Applicant**

**VERSUS**

1. The State of Maharashtra,  
Through Police Station Officer,  
Kotwali Police Station,  
Dist.: Ahmednagar

2. The Superintendent of Police,  
Ahmednagar

**.. Respondents**

...  
Advocate for Applicant: Ms. P. S. Talekar i/b. Talekar & Associates  
APP for Respondent/State: S. B. Pulkundwar  
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| <b>CORAM:</b> | <b>ARUN R. PEDNEKER, J.</b> |
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| <b>Reserved on:</b>   | <b>19.12.2024</b> |
| <b>Pronounced on:</b> | <b>20.12.2024</b> |

**ORDER:**

1. Heard learned counsel for the applicant and the learned  
APP for the respondent-State.

2. The applicant is apprehending arrest in connection with Crime No.i-121/2022, dated 17.02.2022, registered at Kotwali Police Station, District Ahmednagar, for the offences punishable under Sections 420, 409, 467, 468, 471, 120(B) r/w/s 34 of the Indian Penal Code and under Sections 3, 4 and 5 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3. The submissions of the applicant are noted in order dated 10.12.2024, as under:

*“1] The learned counsel for the applicant submits that the applicant is a co-borrower and the co-accused, namely, Pravin Lahaare obtained loan of Rs.3 crores from the Nagar Urban Co-operative Bank and the applicant is a guarantor to the said loan. The learned counsel for the applicant submits that the applicant received Rs.35 lacs from Pravin Lahaare and the same was utilized towards the payment to the vendor of the property. The learned counsel further submits that the loan is entirely secured by way of mortgaged deed, so also, the amount of Rs.35 lakhs was transferred to the original land owner, namely, Shiv Charan Heda as per the recitals of the sale deed executed between the applicant and Shivcharan Heda, which is evident from the bank statement of the present applicant. The learned counsel for the applicant further submits that this Court, by order dated 30<sup>th</sup> September, 2024 in Anticipatory Bail Application No.1515 of 2024 along with connected matters, has granted interim protection in favour of the similarly placed accused in the alleged crime.”*

4. The learned APP, on instructions, and by producing investigation papers, points out glaring instances of fraud being

played by the applicant and submits that the custodial interrogation of the applicant is necessary and the case is not limited to the submissions made by the applicant as noted above.

He also points out that the applicant has taken loan of approximately Rs.3,00,00,000/-, which was sanctioned, on 02.05.2017. He submits that while sanctioning the Loan Sanction the property namely Plot No.2 that a residential bungalow on plot no.2, survey no.272 in Balikashram road, Zilla Parishad, Ahemdagar is shown to be owned by the applicant. The sanction of the mortgage is dated 02.05.2017. It is submitted that on 03.05.2017 at 13 hours 11 minutes, the applicant has purchased the property for 46,20,000/-, although, the said property was shown to be owned by him in his loan sanction document. He submits that the mortgage is registered of the same property with the Bank on 03.05.2017 at 13 hours 45 minutes and the valuation of the property is shown in the mortgage at Rs.1,50,00,000/-.

The learned APP submits that even before the property was purchased the applicant had applied for mortgage of the same by showing the property owned by him and the valuation of the property increases for the purpose of mortgage by three times over within a span of 20 minutes of the purchase.

It is further submitted by the learned APP that there are two loans of 4,00,00,000/- (Rs. Four Crores) and 5,00,00,000/- (Rs. Five Crores).

It is submitted that after the Bank had disbursed the loan amount towards the mortgage the applicant had paid the vendor the consideration price.

As far as, the Rs.9,00,00,000/- is concerned the loan is sanctioned, 31.03.2018 and the property is given in mortgage against that loan purchased on 09.04.2018. Thus, even before the property was purchased the applicant had obtained loan on the property. It is also stated by the learned APP that on receipt of the loan amount towards mortgage of property the applicant had given 5 cheques of Rs.9,00,000/- amounting to Rs.45,00,000/- to the vendor. However, the cheques bounced and the legal proceedings are initiated by the owner of the property for cancellation of the Sale Deeds of the properties mortgaged with the Bank.

5. In sum and substance the learned APP submits that the applicant has defrauded the Bank by getting sanctioned the loan in back date in collusion with the Bank officials. Right from inception the applicant has tried to defraud the Bank. As to today, the outstanding amount is Rs.19,40,54,000/- and the valuation of the

fair valuation of property mortgaged by the applicant is Rs.5,00,00,000/- (Rs. Five Crores)

6. In response thereto the learned counsel appearing for the applicant submits that the applicant has paid Rs.3,42,53,702/- till date and, as such, the applicant never intended to defraud the Bank. It is further submitted that there is sufficient property available with the Bank, which is mortgaged to the Bank while securing the loan. The said properties are worth Rs.9,00,00,000/- and the same can be encashed by the Bank by undertaking procedure as contemplated under the The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002).

7. The applicant has also given tabular form of the status of the loan and the mortgaged property, as under:

| S. N. | Loan Amount<br>(Date of Sanction)                  | Mortgaged properties<br>(date of mortgaged)                                                                                                                                                                                                                                                                                   | Status of loan<br>(amount repaid)                                                                                                                                                                                 |
|-------|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.    | 2.5 Crores + 0.5 Crores = 3 Crores<br>(02.05.2017) | Mortgage deed dated 03.05.2017 of Rs.3 croes consist of 3 properties viz.<br><br>1. Bungalow on Plot No.2 bearing Sy No.272 admeasuring 224.23 sq. Meteres + 186.95 Sq. Meters situated at Nalegaon, Ahmednagar<br><br>2. Flat No. 204, Vaishnavi Complex, admeasuring 74.7 sq. Mtrs at Sy No.24/2A/2, plot No. A-21 situated | The loan of Rs.2.5 + 0.5 Crores is closed on 23.04.2018<br><br>(The same is evident from bank account statement of both the accounts which are annexed herewith and marked at <b><u>Exhibit"RJ-2" Colly</u></b> ) |

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|           |                                                    | <p>at Bishtbag, Ahemdgnagar</p> <p><b>3. Basement Store No. B-01, Vaishnavi Complex, admeasuring 109.31 sq. Mtrs at Sy No.24/2A/2, plot No.A-21 situated at Bishtbag, Ahmednagar</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>2.</b> | <p>5 Crores + 4 Crores = 9 Crores (31.03.2018)</p> | <p>. Two mortgaged deeds of Rs.3 Crores + Rs.6 Crores (11.04.2018) = Rs.9 Crores were executed, copies of which are annexed herewith and marked at <b><u>EXHIBIT- "RJ-7" colly</u></b></p> <p>. Earlier loan of Rs.2.5 Crores + 0.5 Crores = 3 Crores sanctioned on 02.05.2017 was closed whereas the mortgage deed of Rs.3 Crores dated 03.05.2017 was continued for the present loan.</p> <p>. In addition, another mortgage deed dated 11.04.2018 of Rs.6 Crores was executed.</p> <p>. Total mortgage properties for the rpesnt loan are worth Rs.3 Crores + 6 Crores = 9 Crores</p> <p>. Details of properties mortgaged for present loan of 5+4=9 Crores are:</p> <p><b>1. Bungalow on Plot No.2 bearing Sy No.272 admeasuring 224.23 sq. Meters + 186.95 Sq. meters situated at Nalegaon, Ahmednagar.</b></p> <p>(Consideration paid for purchase – Rs.46,20,000/-)</p> <p><b>(The said Property sold in auction for Rs.1,26,51,000/- on 30.07.2024)</b></p> <p>(Forensic report showed fair market value as 1.91 Crores marked below as Exhibit RJ-4)</p> <p><b>2. Flat No.204, Vaishnavi Complex, Admeasuring 74.7 sq. mtrs at Sy No.24/2A/2, plot No.A-21 situated at Bishtbad, Ahemdgnagar.</b></p> <p><b>3. Basement Store No.B-01,</b></p> | <p><b>1. The applicant has repaid Rs.3,42,53,702/- (total amount till date) as following:</b></p> <p>- Rs. 92,85,000/-on 05.07.2018,</p> <p>- Rs. 90,00,000 on 01.07.2019</p> <p>- Rs.33,00,000 on 05.07.2018</p> <p>- Rs.1,06,50,000 on 01.07.2019</p> <p>- Rs.17,30,546 on 11.04.2023</p> <p>- Rs. 2,88,156 on 11.04.2023</p> <p>(The same is evident from bank account statement of both the accounts which are annexed herewith and marked at <b><u>EXHIBIT "RJ-3" Colly</u></b>)</p> <p><b>2. Property at S. No. 1 in the mortgage deed was sold by the Bank in auction. Reserve price of the said property was fixed by the Bank at Rs.1,15,85,585/- and the same is purchased by Mr. Narsel Jagdish Narsel for an amountof Rs.1,26,51,000/-.</b></p> <p>Therefore, the allegations of the prosecuion mortgaging a property of Rs.46,20,000 at higher rate is baseless. Copies of public notice dated 05.09.2023 published in daily Nagar Times and communication dated 05.09.2024 issued by the</p> |

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|  | <p>Vaishnavi Comple, admeasurign 109.31 sq. Mtrs at Sy No.24/2A/2, Plot No.A-21 situated at Bishtbag, Ahmednagar.</p> <p><b>4.</b> Shop No.7A + 7B, Vaishnavi Complex, Total admeasuring 27.88 sq. Mtrs at Sy No.24/2A/2, Plot No.A-21 situated at Bishtbag, Ahmednagar.</p> <p><b>5.</b> Flat No.301, Vaishnavi Complex, Admeasuring 66.63 sq. mtrs at Sy No.24/2A/2, plot No.A-21 situated at Bishtbag, Ahmednagar.</p> <p><b>6.</b> Total 8 commercial shops situated at Sy. No. 14/1A (Later on corrected as 11/1A) at Plot No.29, Kohinoor Vaibhav Apartment, Savedi, Ahmednagar, Savedi, Ahmednagar with followign descriptions are mortgaged:</p> <p><b>a.</b> Basement Store No. 1 admeasuring 27.88 sq. Mtrs</p> <p><b>b.</b> Basement Store No.2 admeasuring 27.88 sq. Mtrs.</p> <p><b>c.</b> Basement Storre No.3 admeasuring 27.88 sq. Mtrs</p> <p><b>d.</b> Basement Store No.4 admeasuring 27.88 sq. Mtrs</p> <p><b>e.</b> Basement Store No.5 admeasurign 27.88 sq. Mtrs</p> <p><b>f.</b> Basement Store No.6 admeasuring 27.88 sq.mtrs</p> <p><b>7.</b> Agricultural land bearing Sy. No.44/12A admeasuring 2 H 2 R (Yellow Zone agricultural land) situated at Kedgaon, Ahmednagar</p> | <p>Bank are annexed herewith and marked at <b><u>EXHIBIT – “RJ-4” colly.</u></b></p> <p><b>3.</b> The Forensic Auditor has mentioned the market value of properties mortgaged by the appicant, a copy of relevant extract of the forensic audit report is annexed wherewith and marked at <b><u>EXHIBIT – “RJ-5”.</u></b></p> <p><b>4.</b> Pursuant to a one time settlement proposal initiated by the applicant, the Bank has agreed to settle the loan of appilcant for an amount of Rs.11,76,00,000/- subject to payment of Rs.2.5 crores at initial stage. A Copy of communication 16.12.2024 is annexed herewith and marked at <b><u>EXHIBIT – “RJ-6”.</u></b></p> |
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8. It is the contention of the learned counsel for the applicant that mere failure to repay the loan or transfer the loan for the purpose of other than the purpose mentioned in the loan document would not constitute criminal offence. Today, more than Rs.3,42,00,000/- has already been repaid from the loan amount and

the properties more than 9,00,00,000/- are mortgaged with the Bank and the entire outstanding amount can be recovered by the Bank by selling the property, as such, there is no criminality involved in the action of the borrower and the borrower be granted anticipatory bail.

9. Considering the submissions made by the learned counsel for the applicant, so also, the learned APP, prima facie, it appears that the applicant has secured loan on the basis of claiming ownership of the mortgaged property. On securing the loan amount, thereafter, the applicant has paid to the vendor the sale consideration. The valuation and the mortgages are highly inflated and, thus, without any money in their own Bank account from the money of the Bank the applicant was able to purchase the property (at less than  $\frac{1}{2}$  price of the mortgaged loan) and mortgage the same to the Bank in connivance with the Bank officials at a very highly inflated rates. The properties today with the Bank are not sufficient to cover the mortgage and the outstanding dues. The applicant has also not paid the vendors their purchase price in one of the properties and, as such, the civil suit is filed for cancellation of the Sale Deeds creating cloud on the mortgaged document of title. The Bank is prima facie at the receiving hand at the fraud played by the

applicant. This is not the matter, where anticipatory bail can be granted as public property is involved in the matter. The Banks are the custodians of the public property and that the economic offences, which are layered by camouflaged transactions has to be unearthed by appropriate and thorough investigation, which would include the custodial interrogation of the applicant.

10. Considering the same, the application filed by the present applicant for anticipatory bail stands rejected.

**[ARUN R. PEDNEKER, J.]**

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