FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3562 OF 2015
[Atul Vitthal Chavan Vs The State of Maharashtra]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

Shri Joydeep Chatterjee, advocate for applicant
Shri A.S.Shinde, A.P.P. for respondent

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CORAM : V.M.DESHPANDE, J.
DATED : 29th July, 2015

PER COURT : -

1] This is an application for anticipatory bail. The applicant is apprehending his arrest, in connection with Crime No. 109 of 2015, registered at Kotwali police station, Ahmednagar, for the offences punishable under Sections 418, 420 r/w 34 of the Indian Penal Code.

2] Heard Shri Joydeep Chatterjee, learned counsel for the applicant and Shri A.S.Shinde, learned Additional Public Prosecutor for the respondent/State, as well as Shri V.D.Sapkal, learned counsel for Mahesh Nagari Patsanstha Maryadit, Bhingar.

3] The first information report is lodged by Pravin Dattatraya Bhokare, the Manager of Mahesh Nagari Pat Sanstha Maryadit, Bhingar. The said credit cooperative Society is having its Head Office at Bhingar. The Branch office of the said society is situated at Adat Bazar, Ahmednagar.

The said society extends financial help by granting loan, if intended borrower pledges his/her gold with the Society. Thus, the Society gives gold loan. The duration of such gold loan is one year.

In the first information report, it is alleged that three borrowers by name Sham Bhau Kale, Mahesh Vitthal Bendre and Sandeep Suresh Malwande took gold loan for various amounts on different dates in the year 2013 by pledging their gold.

The credit society has appointed one Shantanu Dattatraya Bhosale as its Gold Valuer. The duty of the gold valuer is to test the purity of gold and its weight. The gold valuer has to certify its purity and weight and then on the basis of such certification, the Society in its discretion grants loan. The gold which is certified by the gold valuer remains in the custody of the Society.

The three borrowers, who are named in the first information report, failed to repay their loan amount in spite of expiry of the period for repayment. Therefore, the Society gave various notices to them, however, in vain. Therefore, the Society was constrained to issue a public notice against them in the news paper, in spite of that those persons failed to come forward and repay the loan amount and take back their pledged gold. Therefore, the Society on 6.5.2015 auctioned their gold. When the sealed packets of the gold of those three persons were opened in presence of the gold valuer and other merchants of the city, it was noticed that the gold which was pledged by those three persons was impure gold. Thus, the Society was cheated.

After the registration of the crime, the gold valuer was arrested.

During investigation, it was noticed by the investigating officer and also the Society that there are other cases also by which it is noticed that some of the borrowers, though gold is pure, showed their weight on higher side in order to procure the higher amount of the loan. The present applicant is one of such borrower.

4] Applicant-Atul Chavan is having two gold loan accounts.

Learned Additional Public Prosecutor Shri A.S.Shinde submits that when the purity of the gold pledged by the applicant was tested, that time, it was found that the gold pledged is pure. However, according to the prosecution, in one gold account of the present applicant, the actual weight was found as 106.09 gm., however, while obtaining loan it was stated that weight was 150.00 gm. In the said account, he has taken Rs.3,00,000/- by way of loan.

His another account showed that while obtaining loan of Rs.2,50,000/-, he pledged gold, the weight of which at the time of obtaining loan was shown as 163 gm., however, actually it's weight was 111.00 gm.

5] The first informant Shri Pravin Dattatraya Bhokare, who is the Manager of the Society, is personally present in the court. According to the prosecution and the Society, as on 30.6.2015 amount of Rs.6,98,006/- is outstanding against the applicant. There is no dispute about the purity of the gold.

6] Learned counsel for the applicant submits that, applicant-Atul Chavan is ready to deposit Rs.6,98,006/- with the Society within a period of two weeks from today.

7] Since the gold is pure and the applicant is ready to deposit the entire amount outstanding as on 30.6.2015 within a period of 15 days from today with the Society, I am of the considered view that no fruitful purpose will be served by giving the custodial presence of the applicant to the investigating officer. That leads me to pass following order.

ORDER

(i) Criminal Application No. 3562 of 2015 is allowed.

(ii) Applicant-Atul Vitthal Chavan should deposit

Rs.6,98,006/- with the Mahesh Nagari Patsanstha Maryadit, Bhingar on or before 13.8.2015.

(iii) On such deposit, within the stipulated period, interim order granted in favour of the applicant-Atul, dated 8.7.2015 shall stand confirmed.

(iv) In case, applicant-Atul fails to deposit the amount and fails to produce the copy of the receipt showing the deposit of the amount to the investigating officer, it shall be deemed that the present bail application is dismissed and the interim order, dated 8.7.2015 shall cease to operate automatically.

(V.M.DESHPANDE, J.)

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