

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (ABA)No.23/2015
Chandrashekhar s/o Laxman Dhage Vs. State of Maharashtra.

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

Court's or Judge's
Orders.t

Ms. S.W. Deshpande, Advocate for the applicant.
Shri Nayak, APP for the non-applicant/State.

CORAM : PRASANNA B.VARALE, J.
DATE : FEBRUARY 25, 2015.

Apprehending the arrest, the applicant is before this Court seeking pre-arrest bail in Crime No. 220/2014 registered at Chandur Bazar Police Station for the offences punishable under Sections 420, 468, 471 and 473 of I.P. Code.

Perused the report lodged at the instance of Branch Manager of the State Bank of India, Branch at Chandur Bazar on 28th February, 2014. It is stated in the report that under the scheme of providing financial assistance for the agriculturist, the State Bank of India Branch Chandur Bazar disbursed loan to certain agriculturist. It is stated in the report that the period of the loan transaction was from 2007 to 2011. Those agriculturists to whom the finances were made available submitted the documents namely, 7/12 extract, pher-phar etc. As there was no repayment of the loan for considerable period, the bank issued notices. But, there was no reply from these agriculturists. Meantime, anonymous letter was issued by the bank making a grievance that by submitting fabricated documents, the loan was obtained. An inquiry was carried out by the bank and it revealed that certain fabricated documents were submitted to the bank. Accordingly, the report

was lodged. The report is lodged against as many as 96 agriculturists. The loan amount arranges from a paltry amount of Rs.9000/- to Rs.3,90,000/-. The learned counsel for the applicant submitted that the applicant is an agriculturist and earns his livelihood by the agricultural activities. She further submitted that apart from the allegation and that too, through an anonymous letter, there is nothing on record to connect the applicant for the alleged mischief played. The learned counsel, on instructions, submitted that the applicant obtained the loan to the tune of Rs. 49,000/- and repaid an amount of Rs. 10,000/- out of that loan. She further submits that as the scheme was sponsored through the Government, the loan was interest-free loan. The learned counsel further submits that the report itself is a bundle of vague statements. There is nothing in the report fixing any liability upon a particular person so as to show that the fabricated documents were prepared at his instance. The learned counsel submits that the applicant is ready to cooperate with the investigating agency and there is no requirement of custodial interrogation of the applicant.

The learned APP vehemently opposes the application by inviting my attention to the reply filed by the State. The learned APP submits that in the process of investigation material was collected by the Investigating Agency and more particularly, the document namely the copy of 7/12 extract submitted to the bank at the instance of present applicant show that there are two other names as the cultivators reflected in 7/12 extract. Shri Nayak further submits that this fact of the other two cultivators was not revealed by the applicant and he has shown himself to be the owner of the field extending to the area of 1 H 81 R. Shri Nayak then submits that from the statements recorded, it revealed that one of the bank

employees is also involved in the scam of this loan disbursement and the applicant was working as agent for that bank employee. He further submitted that as the investigation is in progress, the applicant may not be protected by grant of pre-arrest bail.

On considering the rival submissions of the learned counsel for the parties and having gone through the material, I find merit in the submission of Ms. Deshpande, the learned counsel for the applicant. Perusal of the report at the instance of the Branch Manager shows that the bank approaches the police with the case that loan was granted under the scheme of financial assistance to the agriculturist for their agricultural activities for the period from 2007 to 2011. There is nothing on record to show that what effort was taken by bank officials to verify the records for the period from 2007 to 2011. The trigger point seems to be an anonymous letter on which the bank conducted an inquiry. Though, it is vaguely stated in the report that in the inquiry it revealed that the Government seal and stamps were mis-utilised. In the reply filed by the State, there is no reference of such material found in the investigation at least up-till-now. The learned APP made an attempt to submit that the applicant played mischief by submitting a 7/12 extract and showing more land area so as to obtain more loan. Perusal of the 7/12 shows that in the 7/12 itself the area against the applicant is 1.81 R. The 7/12 extract annexed to the reply filed by the State shows that the name of other cultivators with the applicant and the area show against the applicant is to the extent of 1.81 Ares. The statement on which the learned APP relied is also perused. This statement reflects that the bank official denied to accept the one of those agriculturist and asked him to avail loan through agent. On this statement, it

is the case of the respondent-State that the applicant was operating as an agent. Apart from this statement, there is no other material on record and in the reply it is stated that other bank employees, who had played mischief and acted in connivance with the agriculturist is not yet traced out.

Thus, considering these aspects of the matter, in my opinion, the applicant is entitled for the protection in the nature of pre-arrest bail. The apprehension of the State, if any, can be taken care of by imposing conditions on the applicant.

The application is allowed. Interim order passed by this Court dated 23rd January, 2015 is confirmed, with a condition that the applicant to attend Police Station, Chandur Bazar on 2nd and 4th Sunday from 9.00 a.m. to 12.00 noon and maintained diary.

JUDGE

Ambulkar