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

**CRIMINAL APPLICATION NO.3822 OF 2016**

Vikramsingh Rajendra Kale,
Age: 34 years, Occ: Trade & Agri.,
R/o. Vikram Trading Corporation,
Datta Mandir, Vidya Nagar,
Devapur, Dhule, Tq & Dist. Dhule. .APPLICANT

VERSUS

The State of Maharashtra
Through P.I. Dondaicha Police
Station. ..RESPONDENT

Mr P.S. Paranjape, Advocate for applicant;
Mr A.B. Girase, Public Prosecutor for respondent

**CORAM : N.W. SAMBRE, J.**

**DATE : 8th August, 2016**

**ORDER :**

Heard Mr. Paranjape, learned Counsel for the applicant and Mr. Girase, learned Public Prosecutor for the State.

2. The applicant is seeking pre-arrest bail in Crime No. 5 of 2010, registered with Dondaicha police station, District Dhule, for offences

punishable under Sections 403, 406, 407, 409, 420, 465, 467, 468, 471, 477(A),120(B) read with Section 34 of the Indian Penal Code.

3. The applicant herein had borrowed substantial loan amount in the name of his trading company, namely, Vikram Trading Company, which was impleaded as respondent No.25 in complaint case being Regular Criminal Case No. 192 of 2009. Pursuant to the said complaint, an offence came to be registered.

4. While trying to make out a case for grant of pre-arrest bail, Mr. Paranjpe, learned Counsel for the applicant-accused would strenuously urge that the investigating agency is following pick and choose method with bias attitude so as to victimize the present applicant in the crime in question. According to him, after the complaint was initiated in 2009, an offence pursuant to the order of the Court under Section 156(3) of the Code of Criminal Procedure came to be registered in 2010 and upto

2016, almost for six years, no charge sheet was filed. According to him, the charge sheet came to be filed pursuant to the order dated 4th May, 2016 passed by the Division Bench of this Court when it was brought to the notice of Division Bench that the matter was transferred from the Special Investigating Team constituted by the Superintendent of Police to the State C.I.D. According to him, out of total 36 accused, the charge sheet is filed only against 24 accused persons and provision is made that remaining accused could be proceeded under Section 173-A of the Code of Criminal Procedure. He would urge that the accused, who is sitting member of legislative assembly, is intentionally shown favour by the Investigating Officer and the applicant, who is beneficiary qua loan amount is made scape goat. Learned Counsel would further add that the remedy of recovery of loan pursuant to the provisions of Co-operative Societies Act is very much available to the competent authority and just because the applicant has not repaid loan would not disentitle him for pre-arrest bail, when the nature of allegations constitutes dispute qua recovery of amount in absence of element of criminality or any motive thereto.

5. Learned Public Prosecutor opposed the application on the ground that after completion of the investigation, the charge-sheet is already filed wherein there is sufficient material available against the applicant so as to demonstrate his motive of commission of criminal offence and *prima facie* involvement thereto. He would urge that the investigating agency is not shielding anybody as is apparent from the statement of Investigating Officer in the charge sheet with appropriate provision to be kept under sub section (8) of Section 173 of the Code of Criminal Procedure for filing supplementary charge sheet. Learned Public Prosecutor would then urge that the investigation that is carried out is fair and sufficient which depicts *prima facie* involvement of the applicant in the crime in question. He would

then add that the submissions as are canvassed on behalf of the applicant about biased investigation cannot have any bearing over the innocence of the applicant, but this Court is required to look into prima facie material so as to show involvement of the applicant in the crime in question, while exercising the powers dealing with the power of this Court under Section 438 of the Code of Criminal Procedure is not biased investigation.

6. It is required to be noted that since no charge sheet was filed for period of six years, perhaps same has prompted for transfer of investigation to State C.I.D., which in turn, filed charge sheet in the matter. Apart from above, it is not in dispute that the applicant is a beneficiary of the loan that was disbursed in his favour, he being relative of office bearer of bank in question. The security for such loan and other compliances as were required to be carried out by the applicant were absent as is apparent from the investigation papers.

7. Apart from above, the nature of offence as has been alleged appears to be having economic angle, which is required to be viewed vividly in the light of law laid down by the Apex Court.

8. The biased investigation, so as to protect certain accused persons as is sought to be canvassed by learned Counsel for the applicant, will be of hardly any assistance, particularly in the matter of consideration for grant of pre-arrest bail in view of material available on record against the applicant.

9. In my opinion, no case for grant of pre-arrest bail is made out. As such, criminal application fails and stands rejected.

**(N.W. SAMBRE, J.)**

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