

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 147 OF 2016

Mr. Santosh Dashrath Sawant ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Ashish B. Baraskar, Advocate for the Applicant.

Mrs. S. S. Kaushik, APP for the Respondent- State.

API-Kishor Avhale, attached to Borivali Police Station, Mumbai is present.

CORAM : A. S. GADKARI, J.

DATE : 27th JANUARY, 2016.

P.C. :

1 The Applicant is apprehending arrest in C.R. No.541 of 2014 registered with the Borivali Police Station, Mumbai, under sections 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code.

2 It is the precise case of the prosecution that the Applicant alongwith the other accused persons opened an account in the Bank on the fake name and/or fictitious identity. The accused persons thereafter, applied for a car loan and after the loan was sanctioned, the Applicant alongwith the other accused persons through co-accused Hitesh Narottam Ved withdrew the amount from the bank account. The said

loan was taken for purchase of a car from M/s. Shreeji Motors. After the loan was sanctioned and the amount was deposited in the account of Shreeji Motors, the Applicant and other co-accused persons through the co-accused Hitesh Ved withdrew the amount and distributed that amount among themselves, in a process of crime. It is further the prosecution case that the Applicant alongwith the other accused persons submitted their forged and fabricated documents for sanction of the said loan from the Union Bank of India.

3 The learned counsel appearing for the Applicant submitted that the investigating agency wants to arrest the Applicant only on the basis of the statement of the co-accused and that there is no evidence at all as of today against the Applicant in the entire charge-sheet filed against the other accused persons. He submitted that the custodial interrogation of the Applicant is not necessary.

4 It is the settled position of law that the statement of the co-accused has no evidencial value at the time of the trial in the Court of law. However, such a statement can be looked into for the purpose of investigation qua other accused persons. The facts pertaining to the present investigation discloses that the Applicant in connivance with the other accused persons opened an account with the Axis Bank in the name of Arun Vijay Aashar. After the sanction of the loan by

the Union Bank of India in the name of the Arun Aashar to the tune of Rs.9,50,000/- for the purpose of the car loan in the name of the Shreeji Motors, the Applicant in connivance with the other accused persons and through their co-accused Hitesh Ved withdrew that amount and have distributed the proceeds of crime amongst themselves.

5 Apart from the aforesaid facts, it is to be noted that the Applicant is also an accused in C.R. No. 266 of 2013 registered with the Mira Road Police Station. The said offence is of the similar nature as of the present crime. When the Applicant was on bail in the said C.R.No.266 of 2013, he has been alleged to have committed the present crime.

6 In view of the above, I find that this is not a fit case to grant pre-arrest bail to the Applicant and hence, the present Application is hereby dismissed.

(A.S. GADKARI,J.)

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