FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICTION NO.178 OF 2016

Mr.Manmeet B. Singh. ...Applicant.
vs.
The State of Maharashtra. ...Respondent.

Mr. Murtuja Najmi with Jitendra Mishra for the Applicant.
Mr. S.S.Kaushik, APP. for the State.
Mr.S.S.Hire,API from Nerul Police Station present.

CORAM : A.S.GADKARI, J.
DATE : 02nd March 2016

P.C.

1) The applicant is apprehending arrest in CR No.428/2014 registered with Nerul Police Station, Navi Mumbai under Section 420, 465, 467, 468 read with 34 of the Indian Penal Code.

2) The complainant Loknath Vilas Mandlik has lodged the first information report dated 21.12.2014. It is stated in the said report that on 17.10.2013 he received a call from a lady Priya Sharma introduced herself to be the representative of City Financial Pvt. Ltd., New Delhi. She further asked the complainant whether the complainant is need of loan. The complainant informed the said lady that on an earlier occasion he had taken a loan of Rs.3.00 from the City Financial Pvt. Ltd. and the same was repaid within the stipulated period. The said Mr. Priya Sharma thereafter informed the complainant that the complainant will be entitled to a loan of Rs.5.00 lacs and for the same he need not mortgage any property.

She further informed that for getting the loan, the complainant will have to deposit only insurance policy. The complainant informed the said lady that he does not have any insurance policy. The said lady thereafter informed the complainant that the complainant to take out two policies having Rs.25,000/- per year as premium and on deposit of the said two policies, the complainant will get a loan of Rs.5.00 lacs. The said Priya Sharma thereafter enquired whether anybody else is interested in getting the loan to which the complainant informed the name of his friend Shri. Ganesh Jadhav is in need of loan. Thereafter, one agent by name Mr. Tripthi contacted the complainant on his mobile number and told him that he has sent by Ms. Priya Sharma for taking insurance policies. The said Mr. Tripathi informed the complainant that he is from Sriram Insurance Company. The Complainant thereafter paid an amount of Rs.50,000/- by way of cheque to Mr. Tripathi for taking the said two insurance policies. The complainant has stated that at the end of December 2013 he received the said two policies but instead of Sriram Insurance Company the said policies were drawn on Reliance Life Insurance Co. That, on 30.1.2014, the said lady namely Priya Sharma again contacted the complainant and informed him that for getting the said loan he will have to deposit an amount of Rs.30,000/- in the account of Mr. Bunti Kumar who is the employ of City Financial Pvt. Ltd. having bank account with Punjab National Bank, Talwara Branch, New Delhi. The said lady also gave Account number of the said Bunti Kumar. The complainant thereafter deposited an amount of Rs.30,000/- in the said account. After the deposit of the said amount of Rs.30,000/-, co-accused and Priya

Sharma contacted from time to time and informed him that the City Finance Company was ready to give a loan of Rs.16.00 lacs for him and for the same directed the complainant to deposit a total amount of Rs.8,33,492/- from time to time. The said amount has been deposited by the complainant in the said account of Mr. Bunti Kumar. The complainant has stated that despite deposit of Rs.9,33,492/- co-accused namely Priya Sharma and Bunti Kumar avoided to give the said assured loan and whenever the questioned about the same used to avoid the answer. The complainant has further stated that his friend namely Ganesh Jadhav was in need of loan of Rs.1.00 crore and for that purpose again accepted Rs.51,95,950/- but did not disburse the loan amount. Being suspicion about the conduct of the said two co-accused persons namely Priya Sharma and Bunti Kumar the complainant and his friend visited the office of the City Financial premises at New Delhi where they found that the said company was not in existence. In the premise, the first information report is lodged.

3) The learned counsel for the applicant submitted that the name of the applicant is not reflected in the first information report. He further submitted that other two accused persons namely Priya Sharma and Bunti Kumar have been arrested by the police and after completion of investigation charge sheet has been filed. He drew my attention to the bank statements thereby contending that Mr. Bunti Kumar was holding the account and the applicant has nothing to do with the same. He submitted that the applicant being the employer and for the acts done by the employees he cannot be held responsible. He however, submitted that after learned Trial Court

granted him interim relief and he had attended the Investigating officer and as on today nothing remains to be interrogate at his instance. He further submitted that the applicant is ready and willing to join the process of investigation and for the said purpose the applicant may be protected by pre-arrest bail.

4) It is the settled position of law as has been enumerated by the Supreme Court, in the case of **State vs. Anil Sharma reported in (1997) 7 SCC 187,** that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. It is further observed by the Supreme Court that very often interrogation in such a condition would reduce to a mere ritual.

5) After taking into consideration the law laid down by the Supreme Court in the aforesaid case, it is to be noted here that during the course of investigation the statement of co-accused Bunti Kumar has been recorded by the Investigating Agency. Though the said statement does not have any evidentiary value, at the time of the trial, the said statement can be looked into at the time of deciding pre-arrest application as it has relevance with the process of investigation. The Co-accused Bunti Kumar has categorically informed and stated to the Investigating Agency that the applicant by changing another name namely Sani Arora was holding his

account in the aforesaid Bank. The credit card which was given by the bank was and is in the possession of the applicant and by use of the said card the applicant had withdrawn the amount deposited by the various persons in the account of the Bunti Kumar. The learned APP submitted that the applicant is the master mind in the crime. That, during the course of investigation it is found that the alleged company namely City Financial Pvt. Ltd. of which the applicant and other accused represented to be the employees and representatives was of fictitious entity and is not in existence. The learned APP. on instructions further submitted that the applicant is also involve in another crime bearing No.304/2015 registered with Oshivara Police Station, Mumbai. It is further submitted that the applicant had adopted the same and similar modus operandi in the said crime and is absconding in the same crime.

6) After taking into consideration the serious allegations against the applicant, gravity of the offence and his earlier involvement in more than one crime. I am of the considered view that, this is not a fit case to grant pre-arrest bail to the applicant. Application is accordingly rejected.

(A.S. GADKARI, J.)