

sas

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.391 OF 2016

Ramesh Maharu Bachchav and Ors.	.Applicants.
V/s.	
State of Maharashtra	..Respondent.
Mr.N.R. Bubna for applicants.	
Mr.Arfa Sait, APP for respondent-State.	

CORAM : A.M.BADAR, J.

DATED : 11TH JULY, 2016

P.C. :-

1. Applicants / accused in Crime No.I-80/2015 for the offences punishable under section 417, 420, 465, 467, 471 read with 34 of the Indian Penal Code registered with Chavani Police Station, Malegaon District Nashik by this application are seeking pre-arrest bail.

2. Heard the learned counsel for applicants / accused. By drawing my attention to agreements executed in the year 2011 by the first informant and his brother-in-law Sunil Bhadane, it is argued that as the first informant and his

brother-in-law were not in a position to repay the loan, they had agreed to sell the Row Houses to present applicants on condition that present applicants shall repay the amount of loan to the creditors. It is also pointed out that receipts issued by the creditor are going to show that amount payable by the first informant and his brother-in-law is in fact paid by present applicants.

3. I have also heard the learned APP who opposed the application and contended that the signatures of the first informant and his brother-in-law were taken on blank papers and thereafter, the matter contending that they are resigning from the membership of the society is written on the blank papers. The learned APP submits that in order to trace out the amount, custodial interrogation of applicants is warranted.

4. Perusal of the F.I.R. goes to show that informant Bhagwan Devre and his brother-in-law Sunil Bhadane have become member of a housing society. They along with others obtained housing loan of Rs.65,000/- from the Maharashtra State Co-operative Housing Finance Corporation Ltd., District Nashik. It is averred in the F.I.R. the first informant and his

brother-in-law used to give the amount of instalment to applicant No.1 and applicant No.3 for onward transmission to the creditors. It is further averred that applicant Nos.1 and 3 had not deposited the amount entrusted to them with the creditor. According to the informant, false agreements were got executed from the informant and his brother-in-law showing transfer of the Row Houses to applicant Nos.2 and 4.

5. Applicants have placed on record agreements dated 21st February, 2011. It is seen from those agreements that stamp papers were purchased by the informant and his brother-in-law Sunil Bhadane. Their signatures are not disputed. Agreements show that as the first informant and his brother-in-law were unable to repay the loan, they agreed to sell the Row Houses to applicants on condition that applicants should repay the loan to the creditor. Along with the application, receipts of the creditor i.e. Maharashtra State Co-operative Housing Finance Corporation Ltd., District Nashik are also enclosed. Receipts show that refund was by present applicant Nos.1 and 3. It is thus *prima facie* apparent that the housing loan taken by first informant and his brother-in-law came to be repaid soon after the agreements. This happened

in the year 2011.

6. Brother-in-law of the informant had issued a legal notice on 18th July, 2013 wherein it is averred that instalment of loan used to be credit regularly in the bank account of the Housing Society. However, in the F.I.R., it is alleged that amount of instalment used to be handed over to applicant Nos.1 and 3.

7. Though agreements are executed in the year 2011, the F.I.R. came to be lodged in the year 2015. Considering this material which prima facie supports the cause of applicants, their pre-trial detention is not warranted. Even otherwise, as seen from the reply of the State that even the Deputy Registrar of the Co-operative Society has reported that the first informant and his brother-in-law made application to the effect that because of financial crisis, they are not in a position to repay the loan amount and, therefore, they wanted to resign from the membership of the society. In this view of the matter, liberty of applicants needs to be protected and hence the order:-

- (i) The applicant is allowed;
- (ii) Ad-interim anticipatory bail granted on 8th March, 2016 is confirmed on the same terms and conditions;
- (iii) In addition, applicants / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against applicants so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (iv) Applicants / accused shall co-operate for expeditious disposal of the trial;
- (v) Applicants / accused shall not commit an offence similar to the offence of which he is accused or suspected of the commission;
- (vi) The application is disposed of accordingly.

(A.M.BADAR, J.)