IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.521 OF 2016

Bhavesh P. Bhinde ... Applicant

Vs.

The State of Maharashtra ... Respondent

WITH
CRIMINAL APPLICATION NO.260 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.521 OF 2016

Bhavesh P. Bhinde ... Applicant
Vs.
The State of Maharashtra ... Respondent
And
Alpa D. Ramparia … Intervener

with
ANTICIPATORY BAIL APPLICATION NO.522 OF 2016

Ramnik R. Nathwani ... Applicant

Vs.

The State of Maharashtra ... Respondent

WITH
CRIMINAL APPLICATION NO.261 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.522 OF 2016

Ramnik R. Nathwani ... Applicant
Vs.
The State of Maharashtra ... Respondent
And
Alpa D. Ramparia … Intervener

Mr.Sujit Shelar i/b A.P. Steenson for the Applicant in ABA/521/2016

Mr.Sujit Shelar i/b Amul Jawale in ABA/522/2016

Mr.Jayesh Wani for Intervener in APPP/260/2016 and APPP/261/2016

Ms.Rutuja Ambekar, APP, for Respondent – State in ABA/521/2016
Ms.Alpa Javeri, APP, for Resp. State in ABA/522/2016

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 31, 2016**

P.C.:

1. These two applications are moved for pre-arrest bail as the applicants/accused are facing charges under sections 120B, 417, 420, 465, 466, 468, 471 of the Indian Penal Code in MECT No.11 of 2015 registered on 2.10.2015 with Mulund police station. As the offence relates to the same C.R., both the applications are decided by this common order.

2. It is the case of the complainant that the applicant-accused Bhavesh Bhinde in Anticipatory Bail Application No.521 of 2016 was family friend of her husband and he gave a proposal to purchase their house for Rs.2 crores and in lieu of that , he was ready to sell his commercial premises to her husband. Her husband wanted to develop his business. So, he ageed for the same. The applicant-accused had asked for the documents of the house and also told that he wanted help of her husband for raising loan. Applicant-accused Bhavesh asked her husband to sign the bank documents and submitted it to Punjab National Bank in Santacruz branch.

Then on 22.8.2014, the complainant and her husband received notice from the Punjab National Bank for payment of loan of Rs.7,70,01,483/- within sixty days. Thereafter within 20 days, they also received a notice from Bank of Maharashtra for the Shop No.211 in 'City of Joy Business Centre', which was the shop promised by the applicant-accused to sell to the complainant. So, the complainant and her husband went to the Punjab National Bank and found that their signatures were forged in the Punjab National Bank and also in Debt Recovery Tribunal. It is the case of the complainant that their shop in City of Joy Business Centre was mortgaged with Ramnik Nathwani, who is the applicant-accused in Anticipatory Bail Application No.522 of 2016 and therefore, she complained in the Court of Metropolitan Magistrate and order under section 156(3) of the Code of Civil Procedure for investigation was passed by the learned Metropolitan Magistrate pursuant to which the offence was registered against the applicant-accused.

3. The learned Counsel for the applicants/accused submitted that the applicants/accused are innocent. He submitted that the applicant/accused Ramnik Nathwani has not done anything wrong. The shop was only mortgaged with Ramnik Nathwani by Bhavesh Bhinde. He submitted that there was no deed between the complainant and the applicants/accused about the sale and purchase of the house or the shop. The complainant

wanted loan for his business and, therefore, the applicant-accused helped the complainant to raise loan from Punjab National Bank. The applicant-accused only paid the EMIs of the loan from time to time and thereafter as there was a default, the notice was issued by the Punjab National Bank and the Bank of Maharashtra. It is further submitted that though he has received the loan amount of Rs.7,70,00,000/- which was deposited in his account by Punjab National Bank, the applicant-accused gave him Rs.51 lakhs for his business purpose. He submitted that he has obtained a stay on the notice of Punjab National Bank and has not committed any offence muchless the offence of forgery. It is submitted by the learned Counsel that the applicant-accused Bhavesh Bhinde has also filed a complaint before the Metropolitan Magistrate Court, pursuant to which offence is registered against the complainant and her husband with the Mulund police station, Mumbai.

4. Learned Prosecutor and the learned Counsel for the complainant also opposed the applications. She submitted that the amount of loan of Rs.7,70,00,000/- was deposited in the personal account of the company which is exclusively run by Bhavesh Bhinde. It is submitted that Bhavesh Bhinde is a beneficiary of this loan amount and he has cheated the complainant and induced him to sign many bank documents and mortgaged his house with the bank. He submitted that his house is now

mortgaged with the bank and he has received the notice. The complainant has no other house to reside.

5. Perused the FIR and also the FIR filed by the applicant-accused Bhavesh Bhinde. It appears from the record that the applicant-accused Bhavesh and the complainant's husband had money transactions between them. The loan amount of Rs.7,70,00,000/- is deposited in the account of the company run by Bhavesh alone. Undoubtedly, he is a beneficiary of this loan. However, the applicant-accused Bhavesh has given Rs.51 lacs to the complainant's husband for his business. It is an admitted fact that the complainant has signed the bank documents and he stood guarantor and also mortgaged the house.

6. Under such circumstances, I am of the view that the offence is based collection of the documentary evidence and if at all, as per the allegations, as the applicant-accused Bhavesh has forged the documents before the DRT or the Bank, then, his specimen signatures are required and he shall cooperate with the police to that effect. Under such circumstances, as no role is specified in the cheating or forgery to the other accused Ramnik Nathwani, I allow both the Anticipatory Bail Applications on the following terms:

i) In the event of arrest, both the applicants-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.10,000/- each with one or two solvent sureties in the like amount;

ii) The applicants-accused shall cooperate with the Investigating Officer.

iii) The applicant-accused Bhavesh Bhinde shall attend the concerned police station on every Tuesday from 11am to 12pm, for four weeks whereas the applicant-accused Ramnik Nathwani shall attend the concerned police station on every Tuesday from 11am to 1pm, for four weeks.

iv) The applicants-accused shall not tamper with the evidence or pressurise the complainant;

v) The applicants-accused shall not indulge into any criminal activity;

vi) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish their permanent address to the Investigating Officer alongwith documentary proof of their address;

vii) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

7. Applications for intervention also stand disposed of.

(MRIDULA BHATKAR, J.)