IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO.916 OF 2016

Bhaskar Narayan More ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.Uday Bobade i/b. Jaising G. Gaikwad, Advocate for the Applicant.
Mr.Ajit M. Savagave, Advocate for the Intervenor.
Mr.H.J.Dedhia, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 27th JULY 2016.

P.C.

1 Heard learned counsel for the parties.

2 Accused involved in Crime No.121 of 2016 registered by Mokhada Police Station for the offences punishable under Sections 420, 467, 468, 406, 409, 120-B, and Section 34 of the Indian Penal Code, has sought anticipatory bail.

3 Learned counsel for the applicant has submitted that applicant during the period from February 2015 to March 2015 was working as Branch Manager of Thane District Central Co-operative Bank at Mokhada Branch, District Palghar and during this period has extended loan to borrowers within his powers, on borrowers pledging gold as per Scheme initiated by Bank. It is the case of applicant that

gold produced by borrower was duly verified by the Goldsmith, who was on the Panel of the Bank and on obtaining his certificate with reference to purity of gold pledged by borrowers, loan cases are sanctioned and amount is disbursed. It is also the case of applicant that in his capacity as 'Manager' for a period of about four years prior to incident, he has approved loan cases in the similar Gold Schemes advancing loan to the extent of Rs.11 Crore of which no complaints are received from anyone. It is, therefore, submitted that as applicant since has roots in the society and since there is no question of his being absconding or fleeing from justice, application be allowed by imposing suitable conditions on the applicant by directing him to attend Investigating Officer to facilitate the investigation. It is thus submitted that as applicant while working as Branch Manager at Mokhada Branch of the Bank, has disbursed loans against pledging of gold to the borrowers on the basis of certificate issued by the sanctioned and approved valuers of the Bank, who are professional Goldsmith and an ex-employee of the bank, no role can be attributed to the applicant.

4 The learned Additional Public Prosecutor has opposed the application contending that offence is registered against 10 accused, out of which two are released on bail, while six are stated to be absconding and has, thus, submitted that as applicant is one of the conspirator along with other co-accused by providing loan to various borrowers on accepting fake gold, stating same to be genuine, is not entitled for any protection. It is, therefore, submitted that application be rejected.

5 The learned counsel for the complainant Bank has opposed the application contending that during the Departmental Enquiry initiated against the applicant, as his involvement is found in the present act, his services are terminated and has, therefore, prayed that application be rejected.

6 Perused the Circular issued by Chief Executive Officer, Thane District Central Co-operative Bank tendered on record by the learned Additional Public Prosecutor with regard to providing loan on pledging gold and silver to borrowers. According to this document, all the Bank Managers are informed about providing loan in a Gold Scheme and as per said Scheme no Bank Manager is authorized to sanction loan exceeding Rs.25,00,000/- to any one person. The Circular is silent about getting gold duly verified from the Goldsmith.

7 The learned counsel for the intervenor has also placed on record Circular with reference to procedure to be followed by Bank Managers before accepting gold for providing loan, according to which before accepting gold, Bank Manager is required to get the purity of said gold duly certified from the Goldsmith, who is on the Panel of the Bank.

8 Having considering these circulars, it is, thus, found that applicant was not empowered to sanction loan exceeding Rs.25,00,000/- to any one person, and he was further required to sanction loan only on getting the purity of gold, produced by borrowers, duly verified from the recognized Goldsmiths.

9 On perusal of report lodged by Chief Executive Officer of the Bank, it reveals that same came to be lodged on the basis of findings of the Audit Report of June 2015, as there appeared difference in the valuation of gold pledged with the bank and the amount of loan disbursed. It further reveals that in the background of such Audit Report, instructions were issued to the applicant's branch to verify, if the gold pledged was pure gold, and accordingly all the borrowers, whose cases were approved by applicant for grant of loan, were called in the branch on 05/03/2016. However, applicant without obtaining directions from superior or from the Chief Executive Officer directed said persons to go from the branch by intimating them through Security Guard-Tukaram Narale.

10 At this point, on a specific query made to the learned Additional Public Prosecutor, if statement of Tukaram Narale is recorded, on instructions from Investigating Officer, it is submitted that he is also one of the co-accused, and in fact according to the further contents of report, applicant, in spite of repeated instructions from Chief Executive Officer, did not issue any notice to any of the borrowers or the then Goldsmith, who was on the Panel of the Bank to reverify the gold, and to certify about its purity.

11 In the background of facts as stated in the FIR, as aforesaid, it is noted that during the period of applicant working as a Branch Manager from June 2012 to March 2016, he had sanctioned loan of Rs.1,30,000/-, Rs.7,50,000/-, Rs.4,75,000/-, Rs.8,00,000/- and Rs.10,00,000/- in the name of same borrower namely Hemant

Udhawant in contravention to the guidelines issued in the circular thereby granting loan in the name of one person. Similarly, it further reveals that applicant while granting loan to the extent of Rs.26,80,000/- in the name of wife of Hemant namely Manisha has further contravened the circular thereby exceeding his limit for grant of loan.

12 On perusal of original applications of borrowers required by them to submit to bank for obtaining loan on pledging gold of silver, though it finds reference of certificate issued by Jeweler Chandrakant Bagul certifying purity of gold, said Goldsmith is also co-accused in present Crime and is stated to be absconding.

13 In the light of above facts, it further reveals from case diary made available by the learned Additional Public Prosecutor that borrowers have pledged fake gold and applicant with dishonest intention and by conspiring with other accused, as well as, other borrowers, sanctioned huge gold loan, thereby putting the institution into financial loss. It is also found that along with applicant, Ramdas Gavit, who was Treasurer of the Bank, is also involved in such racket, who in his capacity as Branch Manager has extended loan to the extent of Rs.1,06,87,000/- in the Scheme to his relatives and in-laws, and applicant in spite of having knowledge of this fact did not bring this fact to the notice of higher authorities.

14 Similarly, on perusal of statements of some of the witnesses, who were working in the capacity as Cashier and Accountant

in the Bank reveals that since borrower Hemant Udhawant was often producing gold and was obtaining loan on such gold, this fact was brought to the notice of applicant, suspecting Hemant as to from where he was procuring gold, upon which applicant did not pay heed to such suspicions and told other employees to look after their own job and not to indulge in such activities.

15 Having considering the facts, as aforesaid, no case is made out for grant of anticipatory bail, as it is noted that custodial interrogation of applicant is necessary and as there are co-accused, who are absconding and their whereabouts are not found, application is, thus, liable to be rejected. Hence, following order :

(i) Anticipatory Bail Application No.916 of 2016 is rejected.

(P. N. DESHMUKH J.)