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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1192 OF 2016

Deepak Dattaram Tawde ..Applicant.

Vs.

The State of Maharashtra ..Respondent

Mr. Ashutosh Kale for Applicant.
Ms. R.M. Gadhvi APP for State.

CORAM: A.S. GADKARI, J.

DATE : 20th October 2016.

P.C.

1 The applicant is apprehending arrest in CR No.242 of 2014 dated 2nd October 2014 registered with Vishnu Nagar Police Station, Dombivli, District-Thane under Sections 420, 468, 471 of the Indian Penal Code.

2 Heard the learned counsel for the applicant, the learned APP and also perused documents annexed to the application.

3 The first information report is lodged by Shri Suhas B. Dalvi, Chief Manager of the State Bank of India, Naupada, Thane. It is stated in the said report that, the applicant for purchase of Room No.101 situated at Nav Padmavati Society, Garibacha Wada, Dombivli (West), District-Thane from M/s Raju Builders availed loan facility with the Abhinav Co-Opperative Bank, Dombivli and for the same submitted an agreement is registered on 9.12.2009 with the Office of the Sub-Registrar, Assurances, Kalyan-4 to the said Bank. That the applicant had availed a loan of Rs.14,00,000/- from Abhinav Co-Operative Bank, Dombivli Branch. As the rate of interest of the said Abhinav Co-Operative Bank was on the higher side, the applicant approached the State Bank of India, Dombivli (West) Branch for repayment of balance loan amount of the Abhinav Co-Operative Bank. The said Abhinav Co-Operative Bank had informed the State Bank of India about the documents which were submitted by the applicant while availing the loan from it. The State Bank of India thereafter advanced a loan of Rs.13,80,000/- to the applicant by mortgaging the said Room No.101. The State Bank of India subsequently advanced an additional loan of Rs.5 lacs to the applicant for his dairy business. That the applicant repaid Rs.1,63,000/- to the State Bank of India till February 2014 and from March 2014 onwards he stopped making monthly installments towards loan amount. That the Officer of the State Bank of India visited the said premises of the applicant i.e. Room No.101, however, the said Officer found that one Mr. Mangesh Bagwe is residing at the said place. After making enquiry with the concerned Society, the State Bank of India realized that the applicant by executing aa deed of sale dated 17.12.2012 has sold the said room to Mr. Mangesh Bagwe for a consideration of Rs.25 lacs and the said agreement was registered with the Sub-Registrar of Assurances, Kalyan-4 on 17.12.2009. The State Bank of India therefore realized that the applicant by submitting forged and fabricated documents initially committed cheating with the Abhinav Co-Operative Bank and subsequently with the State Bank of India by availing loan facility and not repaying the amount. The State Bank of India further realized that the no objection certificate allegedly issued by the concerned Society and submitted by the applicant was also a bogus document. It is lastly contended in the said report that, the applicant by submitting forged and bogus agreement dated 9.12.2009 with the concerned Bank availed total loan of Rs.18,70,000/- and did not repay the same and thus has committed the offence of cheating and forging of documents with the banks.

4 The learned counsel for the applicant submitted that though the applicant alleged to have prepared the bogus and/or fabricated document, however, he did not had any intention to commit an offence. It is only with a view to procure the loan from the concerned Banks, the applicant submitted those documents. He submitted that till February 2014 the applicant has repaid an amount of Rs.1,63,000/-. He submitted that the investigation in the present crime relates to documents and therefore the custodial interrogation of the applicant is not necessary. He therefore prayed that the applicant may be granted pre-arrest bail.

5 Per contra, the learned APP vehemently opposed the application and submitted that the applicant has defalcated the public money and has committed cheating not only with the Co-Operative Bank but the nationalised Bank also and therefore the present application may be rejected.

6 After perusing the record, it clearly reveals that the applicant by submitting forged and fabricated deed of agreement dated 9.12.2009 initially availed loan of Rs.14 lacs from the Abhinav Co-Operative Bank. It is to be noted here that, the said document bears endorsement and/or seals of the Government authorities such as Sub-Registrar of Assurances, Kalyan-4. It is necessary for the Investigating Agency to find out from where the applicant has prepared and/or manufactured such seals of the Government authorities. It is imperative on the part of the Investigating Agency to unearthed the entire truth behind the said crime as the applicant has not only committed the act of cheating to one financial institute but also to a nationalized bank i.e. the State Bank of India. The applicant has sold the said room No.101 to Shri Mangesh Bagwe for valuable consideration, despite the fact that the said property was mortgaged with the Abhinav Co-Operative Bank and subsequently with the State Bank of India and has defalcated an amount of approximately Rs.18,70,000/-.

7 After taking into consideration the nature of the offence committed by the applicant, the gravity of the offence and necessity of the custodial interrogation, this Court is of the view that the applicant is not entitled for grant of pre-arrest bail.

8 The application is accordingly dismissed.

(A.S. GADKARI,J.)