IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1616 OF 2016

Bharat Ramchandra Kate .....Applicant

V/s.

The State of Maharashtra ....Respondent

Mr. Viresh V. Purwant Advocate for Applicant.
Mr. R. M. Pethe APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 20, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 377 of 2016 registered at Karmala police station for offence punishable under section 504 of the Indian Penal Code and sections 39, 45 of Maharashtra Money Lending (Regulation) Act, 2014.

2) It is the case of the prosecution that on 19/08/2016, Sambhaji Thore lodged a report at the police station alleging therein that he is the owner of 4 Acres of agricultural land. For the sake of legal necessity, he had borrowed

Rs. 30,000/- from the applicant on 13/05/2003. It was agreed between the first informant and the applicant that he has to pay 50% interest per month. The land was mortgaged. It was also agreed that when the entire amount was returned, the land would be re-conveyed to the first informant. It is also alleged that the applicant was taking the interest regularly. He had finally paid Rs. 1,45,000/- towards the principal and interest. The land was re-conveyed in favour of the first informant. It is specifically contended that the applicant is indulging into money lending business and that he does not have a licence for the same. That he has given money on interest to several villagers and is not re-conveying their lands. It is specifically contended that the land was re-conveyed, however, applicant was creating obstruction for the mutation entries. Hence, according to the complainant, applicant has committed offence under the provisions of Maharashtra Money Lending (Regulation) Act, 2014.

3) The learned counsel for the applicant submits that F.I.R. would clearly show that the said transaction has occurred during the period 13/05/2003 to 24/04/2009. There is a delay of 7 years in filing the F.I.R. and there is no plausible explanation for the inordinate delay in lodging the F.I.R. The learned counsel also submits that applicant had lodged F.I.R. against the

complainant on 13/08/2016 alleging therein that complainant was obstructing his way to his agricultural land and was threatening the applicant of dire consequences. It is submitted that present F.I.R. has been lodged only to retaliate the allegations in the report dated 13/08/2016 and as a counter blast to the report lodged by the applicant.

4) Be that as it may, papers of investigation do not indicate that there was an inquiry against the applicant to ascertain as to whether he is indulging into money lending business without there being a valid licence for the same. The investigating agency is free to hold the inquiry as it is to be conducted by the Government Authorities.

5) The inquiry is to be conducted by the District Registrar under section 18 and other provisions of Maharashtra Money Lending (Regulation) Act, 2014.

6) The custodial interrogation of the applicant would not be imperative for the purpose of the conducting the said inquiry and hence, applicant deserves to be granted pre-arrest bail. However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

(i) Application is allowed.

(ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 1,00,000/- with one or more solvent sureties in the like amount.

(iii) Applicant shall report to Karmala Police Station on every Friday and Saturday between 10.00 a.m. to 12.00 noon for 4 weeks, commencing from 29/09/2016.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)