Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1630 OF 2016

Mr.Rajendran Shreepad Kudiya. ..Applicant.
vs.
The State of Maharashtra. ..Respondent.

Mr. A.B.Tajane for the applicant.
Mr. R.M. Pethe, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 26th October, 2016

P.C.

1. The applicant is apprehending arrest in Cr No.221/2016 dated 31.5.2016 registered with Kondva Police Station, Pune under Sections 420, 465, 468, 471 read with 34 of the Indian Penal Code.

2. The first information report is lodged by Rafique Mehbub Shaikh. It is stated in the report that the first informant runs a firm by name Mark Developers as proprietory concern and the informant is in the business of constricting buildings. That, the co-accused Yusuf Shaikh and the applicant approached the informant and after deliberation the applicant decided to purchase a Flat No.504 admeasuring 350 sq.ft. from a building being constructed by the complainant at Kondava. The total consideration of the said flat was decided to be

Rs.13,5000/-.The applicant represented the informant that he did not have sufficient amount to book the said flat and therefore, he will approach Aspire Finance Company, Chakan, Pune for loan and after the loan is sanctioned he will pay that amount to the informant. On the basis of the representation made by the applicant and as the co accused Yusuf Shaikh is the mediator in the said transaction the informant executed the sale deed dated 3.4.2016 before the Sub Registrar of Assurances Haveli-10 having Registration No.11/3438/2016 dated 3.4.2016.The informant thereafter on 30.5.2016 went to the said Aspire Finance Company, Chakan and enquired about the process of loan, when it was informed to him by the Manager of the said company that the said finance company has already sanctioned loan in the name of Mark Developers for Rs.11.00 lacs and the cheque bearing No.408448 was handed over to the applicant, one and half months prior to 30.5.2016. It was further revealed that the applicant in connivance with the co-accused Yusuf Shaikh subsequently opened a fictitious account with Union Bank of India in the name of Mark Developers and realized the said cheque. The complainant therefore realized that the applicant in connivance with co-accused Yusuf Shaikh opened a fictitious account in the name of Mark Developers with Union Bank of India and has encashed the cheque issued by the said Aspire Finance Company in the name of Mark Developers. In the premise, the first information report is lodged.

3. Heard the learned counsel for the applicant, the learned APP and also perused the documents annexed to the application. I have also perused the papers of investigation produced by the APP before me.

4. The learned counsel for the applicant submitted that the allegations made in the present FIR are basically of civil transaction and the present crime is registered against the applicant to recover Rs.11.00 lacs. He submitted that the applicant is regularly repaying the instalments to the finance company. He further submitted that the first informant though has registered the sale deed in favour of the applicant, the possession of the said flat is not given to the complainant. He submitted that the FIR is lodged with inordinate delay. He submitted that the investigation in the present crime is pertaining to the documents and for the same custodial interrogation of the applicant is not necessary. He further submitted that the applicant is ready and willing to co-operate with the investigating agency. He therefore prayed that the applicant may be granted pre-arrest bail.

5. The record reveals that after the application for loan was submitted by the applicant, it was processed by the said Aspire Finance Co. The said finance company issued cheque in favour of Mark Developers bearing NO.408448. That the applicant in connivance with the co accused Yusuf Shaikh subsequently opened a fictitious

account in the name of Mark Developers and encashed the said cheque issued by Aspire Finance Ltd. The papers of investigation further reveals that, after realization of the said cheque the co-accused Yusuf Shaikh issued a cheque in favour of the present applicant from the said fictitious account of Mark Developers for an amount of Rs.9,45,000/- and the applicant deposited the said cheque in his account with the Union Bank of India and encashed it. The informant has categorically stated that he enquired with the said finance company on 30.5.2016 and has lodged the present FIR on 31.5.2016 and therefore I do not find any substance in the contention of the applicant that the resent FIR is lodged with delay.

6. In view of the evidence so far collected by the prosecuting agency, the complicity of the applicant in the present crime is apparent and to unearth the entire truth behind the crime it is necessary that the Investigating Agency must be given an opportunity to further investigate it and the same is not possible without the custodial interrogation of the applicant.

After taking into consideration the serious allegations against the applicant and the gravity of the offence this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

(A.S.GADKARI, J.)