

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1835 OF 2016

Archana Mangesh Thorave	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi, Advocate for the applicant.

Mr. Prashant Jadhav, APP, for the State.

Mr. M.B.Sagade, API, Wakad Police Station, Pune, present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 1st December, 2016.

P.C.

Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending her arrest in Crime No.534 of 2016 registered at Wakad Police Station, Pune, for the offences punishable under Sections 420, 406, 465, 468 and 471 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that the applicant and her husband had applied for a housing loan to the tune of Rs.1,63,50,000/- to Bank of Maharashtra, Wakad Branch, Pune. They had also shown to the Bank that they have given the initial earnest amount to the tune of Rs.55

lakhs to the builder. The loan was sanctioned and the amount was disbursed in favour of the developer. A receipt was also issued by one of the partners of the construction firm. It appears from the papers of investigation that the said receipt is forged and fabricated.

3. The learned counsel for the applicant submits that in fact, the principal allegations are against the husband of the applicant and that he is in custody. The learned counsel submits that the applicant is a woman and has small children and, therefore, leniency be shown to the applicant.

4. As against this, the learned APP submits that the applicant had signed the receipt for amount of loan from Bank of Maharashtra and therefore the involvement of the applicant is clear. Be that as it may, the applicant in the given facts and circumstances of the case, deserves to be protected for a limited period during which she shall appear before the learned Magistrate as this Court is not inclined to grant relief under Section 438 of Cr.P.C. The learned Magistrate shall consider that the offences alleged against the applicant are triable by the Magistrate and shall consider the application filed by the applicant under Section 437 of Cr.P.C., more particularly with the aid of the proviso to Section 437 of Cr.P.C. and

decide the application on the same day when she appears. In view of this, the application under Section 438 of Cr.P.C. stands rejected.

5. The applicant stands protected till 5 p.m. on 13.12.2016. The learned Magistrate shall not be influenced by the fact that the application under Section 438 is rejected for the simple reason that parameters for grant of relief under section 438 of Cr.P.C. would be different from the parameters enumerated in Section 437 of Cr.P.C.

Application stands rejected.

(SMT. SADHANA S.JADHAV, J.)