IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1912 OF 2016

Ramesh Bhagwan Wadkar .....Applicant

V/s.

The State of Maharashtra ....Respondent

Mr. Prasad B. Kulkarni Advocate for the Applicant.
Mr. R. M. Pethe APP for the State.
Mr. S. A. Pandule, PSI Warje Malwadi Police Station, Pune.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 13th DECEMBER, 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. 200 of 2016 registered at Warje-Malwadi Police Station on 23/04/2016 for offence punishable under sections 406, 506 of the Indian Penal Code and Section 39, 44, 45 of the Maharashtra Money Lending (Regulation Act) 2014.

2) It is the case of the prosecution that Kundlik Raghu Gade was desirous of purchasing a second hand vehicle and therefore, he had approached the

present applicant through one Mr. Suresh Bendre. On 23/04/2016, Kundlik Gade lodged a report at the police station alleging therein that he was assured by the present applicant that he holds a money lending licence. He had borrowed Rs. 2 Lakhs from the present applicant and the interest rate was 5% per month. The complainant had paid the interest for 5 to 6 months and thereafter, applicant had started calculating the interest at the rate of 10% per month. In the month of December 2012, he had purchased the pick-up van from Tata Finance. Thereafter, the present applicant had informed the complainant that the aggregate amount of interest rate is Rs. 70,000/- and upon failure to deposit the same, he was threatened of dire consequences. It is alleged that the memorandum of understanding was executed between the complainant and the present applicant but the copy of the same was not given to the complainant. Subsequently, Suresh Bendre had informed the complainant that applicant does not hold a licence for money lending. According to the complainant, applicant had not deposited the installments of 6 months and therefore, Tata Finance Company had initiated action against him. According to the complainant, he had given the amount of Rs. 70,000/- for depositing the installments and that he has committed breach of trust.

3) It is pertinent to note that the Investigating Officer has not made any reference to the Deputy Registrar of Co-operative Societies for initiating inquiry against the present applicant to inquire as to whether the applicant holds a money-lending licence or not, for the reasons best known to the Investigating Officer, moreover, the statement of Suresh Bendre is also not recorded.

4) The learned APP upon instructions submits that Suresh Bendre is not responding to the notices issued by the police and therefore, his statement could not be recorded.

5) Taking into consideration the papers of investigation, this Court is of the opinion that applicant deserves to be granted pre-arrest bail. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 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 the concerned police station as and when called.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)