IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1714 OF 2015

Abhishek Ramesh Sawant ... Applicant
vs.
The State of Maharashtra ... Respondent

Ms. Anita Sawalkar i/b. Mr. M. Moses, for the Applicant.
Mrs. S.S. Kaushik, APP for Respondent – State.
PSI. Mr. Bharat Salunkhe, Manikpur police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **15th MARCH, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code in C.R. No. 286 of 2015 registered with Manikpur police station, Vasai(E), Dist. Palghar. The offence is registered by one Ravindra Pawar.

2. It is the case of the prosecution that the complainant and his wife jointly owned a flat at Gurupuja building, United Complex,

Evershine City, Vasai(E), Dist. Palghar. In the year 2014 they have decided to sale the said flat and wanted to purchase 2 BHK flat. Thereafter, they came in contact with co-accused Rajan Sawant and one agent Nisha. They agreed to buy the said flat for Rs. 23,60,000/- and they entered into Memorandum of Understanding. The co-accused asked them that they should open a saving account in the bank for the purpose of payment at the time of registration of the Memorandum of Understanding. The complainant and his wife have submitted their PAN card, Ration card and all other documents with the co-accused for that purpose, however those documents were not returned to them. So the complainant made an inquiry with the co-accused. The co-accused informed them that a separate saving account is to be opened in another bank. The complainant therefore went to that bank and made inquiry and he found that though the account was opened in the name of complainant and his wife, their photographs are not appearing in it but the photograph of Nilesh Sawant and one unknown lady were found on the account. However, he did not complaint about it because still money was due from co-accused Rajan Sawant. The entire amount of Rs. 23 lacs was paid by cheque and demand draft. However, on 17th August, 2015 he was contacted by two representatives of L & T Finance Company and they inquired with the complainant that whether he had received Rs. 20 lacs by a demand draft issued by the Finance Company. When the complainant denied, they made inquiry and it was found that Rajan Sawant and Nilesh Sawant have mortgaged their flat of Gurupuja building with L & T Finance Company. The complainant also found that the said flat is also mortgaged with Union Bank of India, Ghansoli and obtained loan. So also the loan was obtained by the co-accused by opening a saving bank account in the Cosmos Bank, Ambadi in the name of complainant and his wife and the said loan was obtained against the said flat. The applicant/accused has signed as surety in all these loan transactions. Hence, the offence is registered against him.

3. The learned counsel for the applicant/accused submits that the applicant is innocent, he has signed only as a surety and he is not concerned with any of the transactions or crime. His name is not appearing in the first information report. He is not aware of the filing of bogus documents in the name of complainant and therefore not concerned with this offence. He prays for interim bail.

4. The learned prosecutor while opposing the application submits that in the investigation, it was found that the co-accused had mortgaged one flat with various banks and obtained loan from the banks and in all these transactions the applicant/accused is the only surety. She submitted that she is relying on the contents of the affidavit filed by the investigating officer.

5. Perused the first information report, affidavit of the investigating officer and other documents. It is transpired from the documents and record that the co-accused along with the applicant /accused and other accused have mortgaged the flat of the complainant with various banks and obtained loans. The role of the applicant/accused does not look innocuous as he acted as a surety. The applicant/accused has produced the documents showing his status as employee of Bharat Petroleum Corporation. In all the loan documents, the applicant/accused has signed as guaranteer in this case. *Prima facie* it is a case of cheating. The role of the applicant/accused is found for the purpose of obtaining loans. The case is of cheating and forgery which is totally based on the documentary evidence. Hence, the custody of the applicant/accused

is required for further investigation. Therefore, I am not inclined to grant anticipatory bail to the applicant/accused.

6. Hence, anticipatory bail application stands rejected. The earlier interim pre arrest bail granted to the applicant/accused is hereby cancelled.

(MRS.MRIDULA BHATKAR, J.)