

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. ANTICIPATORY BAIL APPLICATION NO. 1039 OF 2017

Ganesh Suresh Wagh

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

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Mr.A.V. Chatuphale a/w. Regina Corried and Bhavika Kuperkar,
Advocate for the Applicant.

Mrs.J.S. Lohokare, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : JUNE 22, 2017.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.178 of 2016, registered with Vanrai Police Station Goregaon (East), Mumbai for the offences punishable under Section 406 and 420 read with Section 34 of IPC.

2 The prosecution case is that in the year 2010, the co-accused Ajay Kumar Dhavan and Pavan Kumar Dhavan had approached the State Bank for getting the loan for purchase of flat. They were to purchase flat bearing nos.101, and 103 situated

at Thane. They submitted relevant documents. The documents were scrutinized by the Bank and loan of Rs.70,00,000/- was sanctioned for the same. The original documents were deposited with the bank. The said flats were sold by the applicant who is the partner of Mangalam Construction vide agreement dated 22nd February, 2011. The Co-accused deposited initial installments of loan. The concerned officer of the bank visited the flat and noticed that the same is occupied by some trust. It was noticed that the said institution had purchased the flat from Mangalam Construction on 13th February, 2012. Both the flats were in possession of the said Trust. Although the said flats were mortgaged to the State Bank of India, the applicant and the co-accused had obtained loan in respect to the same flats to the tune of Rs.65,00,000/- from the Corporation Bank, Mumbai Central Branch on 28th May, 2011.

3 Learned advocate for the applicant submitted that FIR was lodged belatedly. The custodial interrogation of the applicant is not necessary. The co-accused were arrested and they were released on bail. Reliance was placed on order granting bail to the co-accused wherein certain observations were made by the learned Magistrate with regard to inaction on the part of the

Corporation Bank and belated filing of the FIR. It is further submitted that all the documents were in possession of the investigating machinery and, therefore, the applicant can be granted anticipatory bail.

4 Learned APP submitted that the applicant is involved in a serious crime. He was party to both the transactions. The second transaction with the Corporation Bank was entered upon within a span of three months from the first transaction. The amount was credited into the account of the applicant. It is further submitted that there are two cases registered against the applicant vide C.R.No.229 of 2017 for offences punishable under Section 420 of IPC with Pantnagar Police Station which is a similar offence and another offence with Navpada Police Station vide C.R.No.456 of 2013, for the offences punishable under Sections 467, 468, 471 and 420 of IPC. It is, therefore, submitted that the applicant is not entitled for relief under Section 438 of Cr.P.C.

5 On perusal of the FIR, the order passed by the Sessions Court and on hearing the submissions advanced by both the parties, it is noted that the applicant is party to both the

transactions. After obtaining the loan of Rs.70,00,000/- in connivance with the co-accused, he was again party to the second transaction along with the same co-accused which was executed within a span of three months. The applicant is also having criminal antecedents. In the aforesaid circumstances and considering the role played by the applicant, I am of the opinion that the applicant is not entitled for the relief as prayed for.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.1039 of 2017
is rejected.

(PRAKASH D. NAIK, J.)