IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPTORY BAIL APPLICATION NO. 1056 OF 2017

Manisha Rajendrasinh Suryavanshi ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO. 538 OF 2017
IN
ANTICIPTORY BAIL APPLICATION NO. 1056 OF 2017

Rupali Fattesinh Suryavanshi ...Intervener/ Complainant

IN THE MATTER OF :

Manisha Rajendrasinh Suryavanshi ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Balwant Vitthal Salunkhe for the Applicant

Mr. S. R. Agarkar, A.P.P for the Respondent-State

Mr. Purushottam G. Chavan for the Intervener in APPP/538/2017

API Khade D. S. from Pandharpur City Police Station, Solapur (Rural) is present

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 23rd JUNE, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 312 of 2017 registered with the Pandharpur City Police Station, Pune, for the alleged offences punishable under Sections 420, 465, 467, 469, 471, 34 of the Indian Penal Code.

3. Learned Counsel for the applicant states that the allegations as against the applicant are false and baseless. He submits that the applicant has only signed the Mortgage Deed as a Guarantor. He submits that the applicant is a lady having a child aged about 2 years. He further submitted that it is the case of the prosecution, that on the basis of a forged 7/12 extract, the applicant and her husband, co-accused-Rajendra mortgaged the properties belonging to the complainant's minor son, with the Bank and obtained a loan of Rs. 3 crores from the said Bank. He submits that this being the only allegation against the applicant, custodial interrogation of the applicant is not required.

4. Learned A.P.P opposes the application. He submitted that the applicant and her husband have defrauded, cheated and misappropriated

land belonging to the complainant's son. Learned A.P.P submitted that 7/12 extracts of certain properties belonging to the complainant's son, were prepared by the applicant and her husband, by showing their names in the said 7/12 extract and thereafter by mortgaging the said properties, had obtained a loan of Rs. 3 crores from the Bank. He submitted that even the title search report has been forged in the said case and that the role of the Bank Officials also needs to be investigated.

5. Learned Counsel for the intervener supports the learned A.P.P. He submits that the complainant's husband expired in 2001. He submitted that pursuant thereto, the ancestral property was partitioned. He relied on the Partition Deed on page 32 of the intervention application to show the division of property between the family members. He submitted that certain lands were allotted to the complainant and that about 7 properties were given to the complainant's son Vijaysinh, who was a minor at the time of the Partition Deed. He submitted that the name of the complainant's minor son Vijaysinh was recorded alongwith the complainant's name in all the revenue records of the said properties. He further submitted that the applicant thereafter moved to Pune, alongwith her minor son in 2007-2008.

He submitted that the complainant learnt in April, 2016, that her minor son's property was being auctioned by the Bank of Maharashtra under the provisions of the Securitisation Act and on further inquiry learnt, that the present applicant and her husband, in collusion with other accused, had obtained huge loan amounts from the Bank, by mortgaging her minor son's property to the Bank of Maharashtra, Pandharpur Branch. He relied on the Mortgage Deed, which is on page 65 of the intervention application, in particular, pages 86 and 87 to show that the complainant's son's properties were mortgaged by the applicant and her husband to the said Bank. He further relied on page 108 of the intervention application, which is a forged and fabricated 7/12 extract, wherein the applicant's name has been entered. He submitted that the applicant's custody is required as several documents have been forged and fabricated and submitted to the Bank of Maharashtra, including the title search report.

6. Perused the papers. It is not in dispute that the applicant and the complainant are related. It also appears that the complainant's husband met with an accident and expired on 31st March, 2001, leaving behind minor son-Vijaysinh. It also appears, that after the expiry of the

complainant's husband, a Partition Deed was effected in respect of all the properties. The said Partition Deed was executed on 23rd July, 2001 and is at page 32 of the intervention application. Pursuant to the said Partition Deed, the name of the complainant's son Vijaysinh and the complainant was recorded in the revenue records of all the properties i.e. about 7 properties. It appears that the complainant and her minor son Vijaysinh left Pandharpur and settled in Pune from 2007-2008. It appears that in April, 2016, the complainant came across a public auction notice with respect to the property belonging to her minor son, published by the Bank of Maharashtra under the provisions of the Securitisation Act, for sale of the said property. On inquiry, it was revealed that the applicant and her husband had, in collusion with other accused, availed huge loan of Rs. 3 crores from the said Bank by mortgaging the complainant's minor son's property to the Bank of Maharashtra, Pandharpur Branch. It appears that the applicant's husband had executed a Mortgage Deed dated 30th November, 2012 in the Office of the Sub-Registrar, Pandharpur. It is revealed in the investigation that the applicant and her husband had prepared bogus 7/12 extract by deleting the name of the original owner of the property i.e. Vijaysinh from the 7/12 extract and had inserted their names. On the basis of the Mortgage Deed, the applicant and her husband availed loan to the tune of Rs. 3 crores. The applicant has signed the said Mortgage Deed as a Guarantor. It also appears that the complainant had brought the said illegality to the notice of the Bank Officials i.e. the Branch Manager, Regional Manager and other Officers, however, no cognizance was taken and instead, an attempt was made to sell the property.

7. Learned A.P.P states that the recovery proceedings have also been decided ex-parte, as the applicant and her husband failed to appear as they had nothing to loose, inasmuch as, the mortgaged property did not belong to them. It also appears that the title search report has also been forged in the said case, inasmuch as, the Advocate who is alleged to have prepared the title search report, has denied preparing the same. The original 7/12 extract clearly shows, that the property stood in the name of the complainant's minor son Vijaysinh and that a forged 7/12 extract was prepared, by inserting the name of the applicant and her husband.

8. Considering the manner in which the land was mortgaged on the basis of a fake 7/12 extract and other documents i.e. title search report,

etc., custodial interrogation of the applicant is necessary. It is necessary to also find out if any Bank Officer or any other persons are involved in preparation of the same. Accordingly, the application is rejected.

9. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application. If an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

10. In view of the above order, nothing survives for consideration in the intervention application being Criminal Application No. 538 of 2017. The same stands disposed of accordingly.

REVATI MOHITE DERE, J.