IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1276 OF 2017

Lalitkumar Subhash Kale & Ors. ….. Applicants

VERSUS

The State of Maharashtra ….. Respondent

Mr. A.P.Mundargi, Senior Advocate, i/b. Mr.Hrishikesh Mundargi for the Applicant.

Ms.S.S.Kaushik, A.P.P. for the State.

CORAM : T.V.NALAWADE, J.
DATE : 9th AUGUST, 2017

P.C.

The application is filed for relief of anticipatory bail in C.R.No.413 of 2016 registered with the Karad City Police Station, for the offences punishable under sections 406, 409, 420, 465, 467, 468, 470, 471 and 474 read with section 34 of the Indian Penal Code. Both the sides are heard. The papers of investigation were made available for perusal of this court.

2. The crime is registered on the basis of the report by one farmer Yashwant Ramchandra Patil, resident of Tambave, Taluka Walva, District Sangli. He owns tractor and trailor and he uses the tractor and trailor for agricultural purpose and also for transporting the sugar cane for sugar factory. In the past in the year 2013-14, he had made an agreement with association of labour employees of sugar

factory for cutting and transporting sugar cane for Krishna Sugar Factory and he had handed over his record like identity card, pan card, ration card, RC Book and TC Book of aforesaid transport vehicle. He had not entered into such agreement in the year 2014-15.

3. On 26th November,2015, he received a notice from Bank of India, Branch Karad in which the bank had asked him to make payment of installments in respect of the loan of Rs. 7,00,000/-given by the bank to him. He visited this branch and he noticed that even when he had not entered into any agreement with the sugar factory or with the association of the labour, the loan was shown to be given to him on the basis of the record which was supplied by him in the past to the association. After making enquiry he realized that the office bearers of the sugar factory and also of the association and some employees of the sugar factory and bank employees had created false record and on that basis, the loan was shown to be sanctioned in his favour.

4. The present applicants are the employees of the aforesaid bank. During the enquiry, the first informant had realized that there were many such cases and in the report itself he had contended that in the similar manner in the names of 273 persons, loan of Rs.7,00,000/- to each was shown to be sanctioned and the total amount of Rs.19.32 crore was disbursed by the bank on the basis of the false record. In the report he had specifically given the names of the office bearers of

the aforesaid association of the employees of the factory and also office bearers of the sugar factory. He had no knowledge about the names of the bank employees who were involved and so he had mentioned that he bank employees were also involved in this fraud.

5. Learned counsel for applicants, for the bank employees submitted that as per the procedure, the employees of the bank had no role in scrutiny. Learned counsel submitted that as per the procedure, the sugar factory was supplying the names of the persons who were to be engaged for transporting sugar cane and the sugar factory was supply the record for identification and on that basis the loan papers were created. He submitted that there is possibility that the record of "Know Your Customer" (KYC) was probably approved negligently, but there was no intention of cheating anybody.

6. The papers of investigation show that in 273 cases, the persons were not aware that their record which was handed over to the sugar factory in the past was being misused. As per the procedure, the applications are required to be obtained from the persons seeking loan and the record involves photo identity card. Atleast the applications are required to be filled by the applicants fill and it is the responsibility of the bank employees to check that the applicants fill the applications and they submit the applications to the bank. It is clear that such verification was not there. Further the amount was also not collected by these poor

persons and the amount went into the hands of third persons. Learned counsel submitted that the Sessions Court has granted the protection to the directors and the officers of the bank and in view of that circumstance the protection needs to be given to the present applicants also. This submission is not acceptable. It will be open to the State to take steps like filing proceedings with cancellation of the anticipatory bail if it is granted in favour of the persons who have collected the amount. In such cases, the custodial interrogation is must and the present applicants will give the necessary information to the investigating agency as to how amount was disbursed and who are the beneficiaries. At present inference is possible that the present applicants are also beneficiaries. They created the record of loan transactions and it was their duty to scrutiny the papers. In view of these circumstances, this court holds that the discretionary relief of anticipatory bail cannot be granted in favour of the applicants. In the result, the application stands rejected.

(T.V.NALAWADE, J.)