

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

ANTICIPATORY BAIL APPLICATION NO. 132 OF 2018

1	Rama Sadashiv Kale.	
2	Aba Anna Karande.	... Applicants.
	Versus	
	The State of Maharashtra.	... Respondent.

Mr. Rahul Shivaji Kadam, advocate for Applicants.

Mrs. P.P. Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 12, 2018**

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 944 of 2017 registered at Indapur Police Station for offence punishable under section 420, 465, 467, 471 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 18/12/2017 Pragyanjyoti Sahu lodged report at the police station alleging therein that she is working as Agriculture development officer at Bank of India, Indapur branch. Rama Kalel had filed a proposal for loan and had submitted the documents in respect of Gat No. 58/1 admeasuring 3 hector 86 ares and had claimed that he is the owner of the said property. A loan of Rs. 11,99,000 is sanctioned and an amount of Rs. 8,16,000/- has been disbursed. The First Informant had called upon the applicant No. 1 on several occasions. However, he had not responded. Upon enquiry it had transpired that one Kastur B. More was the owner of the said land and in fact the sale deed is of Mauje Wadapuri and the applicant had fabricated the said documents in his own name. The applicant No. 2 happens to be the guarantor to the said loan proposal.

4 The learned Counsel for the applicants submits that he is regularly paying EMI towards the said loan and therefore, he should

be granted pre-arrest bail. It is a matter of record that the loan proposal was filed by forging, fabricating documents, which in fact, were in the name of Kastur More. The applicant would be liable for an offence punishable under section 467, 471 besides 420 of the Indian Penal Code and hence, does not deserve discretionary relief under section 438 of the Code of Criminal Procedure, 1973.

5 As far as the applicant No. 2 is concerned, he is a guarantor to the loan proposal. His role would be restricted only to repay loan in the eventuality that the applicant No. 1 fails to pay installment. There is no material to show that the applicant No. 2 was aware that the applicant No. 1 had forged and fabricated documents. In view of this, this Court is of the opinion that the applicant No. 2 deserves to be granted pre-arrest bail.

6 It is made clear that observations made hereinabove are restricted to the application under section 438 of the Code of Criminal

Procedure, 1973 and shall not be considered for the purpose of quashing of FIR or discharge application or at the time of trial.

7 Hence, following order is passed :

ORDER

- (i) The application is partly allowed.
- (ii) The application filed by the applicant No. 1 stands rejected.
- (iii) The application filed by the applicant No. 2 is allowed.
- (iv) In the event of arrest in Crime No. 944 of 2017 registered at Indapur Police Station, the applicant No. 2 be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.
- (v) The applicant No. 2 shall report to the police station as and when called and cooperate with the investigating agency to the best of his capacity.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)