IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1040 OF 2018

Shri. Daulat Ramkrushna Dangat .... Applicant
Vs.
The State of Maharashtra .... Respondent

Mr. Aniket U. Nikam a/w Mr. Rohan Mahadik I/by The Juris Partners for the Applicant.
Mr. Prashant Jadhav APP for the State.
Mr. D.R. Patil, Dy.S.P., E.O.W., Nashik (Rural)

Coram **: *Smt. Sadhana S. Jadhav***, J.
Date : 26th July, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No.150 of 2017, registered at Sinnar Police Station, District Nashik for the offences punishable under Sections 420, 467, 468, 471, 120(B) read with 34 of Indian Penal Code and Sections 3 and 4 of Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act.

3 It is the case of the prosecution that the applicant was living beyond the jurisdiction of Sinnar Nagari Patsanstha i.e. Credit Society. That he had applied for loan. The loan was sanctioned to the tune of Rs.80,00,000/-. It was a personal loan as well as loan in the name of Abhishek Krushi Seva Kendra. In all there were four loan accounts i.e. Account no. 380, Account no. 15, Account no. 39 and Account No. 757. The total amount, which was sanctioned and disbursed was Rs.1,05,00,000/- and with interest as on 30th April 2018 the amount is Rs.1,94,29,315/-.

4 Learned counsel for the applicant submits that the applicant has filed a petition before the Co-operative Court at Nashik seeking declaration and injunction as far as Account No. 39 is concerned. It is specifically alleged in the said proceeding that the bogus account was opened in his name by Manager, Mr. Anil Patil. The account was his wife Mangal Daulatrao Dangat. It is a bogus account and is no concern with Account no.39.

5 It is pertinent to note that the said proceedings are filed on 21st July 2016 and the F.I.R. in the present case is registered in the year 2017. One of the account is housing loan account. The credit society has not obtained any certificate under Section 101 of the Maharashtra Co-operative Societies Act nor the society has filed any proceedings under Section 91 of Maharashtra Co-operative Societies Act against the present applicant for recovering the loan amount. It is not a case of the prosecution that the applicant was not made a “C” Class member of the society. In the present case, the Directors were arrested and are enlarged on regular bail. Therefore, in the said circumstances, the custodial interrogation of the applicant would not be imperative.

6 Learned counsel for the applicant, upon instructions, submits that in fact the loan was sanctioned and disbursed in the name of the present applicant and thereafter he was coerced to withdraw the cash and return the same to the bank. In view of this, the applicant deserves to be granted pre-arrest bail.

7 However, the observations are restricted to application under Section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial. Hence, the following order is passed :

O R D E R

i) The application is allowed.

ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

iii) The applicant shall report to the concerned police station on 2nd, 3rd and 4th August 2018 between 10.30 am. To 1.00 pm. and co-operate the investigating agency.

iv) The Police shall record the statement of the applicant.

The application is accordingly disposed of.

(*Smt. Sadhana S. Jadhav*, J)