

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

ANTICIPATORY BAIL APPLICATION NO.1330 OF 2018

Mr. Manoj Khailash Gaikwad Applicant
 Vs.
The State of Maharashtra Respondent

Mr. Satyam H. Nimbalkar for the Applicant.
Mr. S.R. Agarkar APP for the State.

Mr. Yurkar, PC, (B.No. 1598) Pimpri Police Station, Pune.

Coram : ***Smt. Sadhana S. Jadhav, J.***
Date : ***11th 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.604 of 2016, registered at Pimpri Police Station, Pune for the
offences punishable under Sections 420 and 406 read with 34 of
Indian Penal Code.

3 It is the case of the prosecution that on 26th October, 2016, Omprakash Majilal Jaiswall, who was working with India Bulls Housing Finance Limited lodged a report at the police station alleging therein that on 25th May 2016, the bank had disbursed a loan to the tune of Rs.95.00 Lacs in the name of Danish Iqbal Karbhari and Arfan Iqbal Karbhari. The cheques were drawn in the names of Nikhil Yashwant Chavan and Sangita Yashwant Chavan of Rs.94,45,571/- drawn on HDFC Bank. It had later transpired that Nikhil Chavan and Sangita Chavan had not applied for loan nor they were the beneficiaries of the same and in fact Danish Karbhari and Arfan Karbhari had forged and fabricated the PAN card and other documents and submitted the same to India Bulls Housing Finance Limited.

4 No role is attributed to the present applicant in the F.I.R. That since the instalments were not being paid, Nikhil Chavan and Sangita Chavan were also shown as an accused in the same offence. Their application for pre-arrest bail has been rejected by this Court (Coram : Mrs. Mridula Bhatkar, J.) and the Hon'ble Apex Court has

granted pre-arrest bail in favour of Nikhil Chavan and Sangita Chavan.

5 It appears from the papers of investigation that on 13th May 2016, Nikhil Chavan and Sangita Chavan had executed sale-deed in favour of the present applicant. The genuineness of the sale-deed has not been disputed by Nikhil Chavan or Sangita Chavan, which was executed in favour of the applicant.

6 Learned counsel for the applicant vehemently submits that as on today, there is no material to show that the applicant had forged and fabricated the documents in respect of Nikhil Chavan and Sangita Chavan. Learned APP submits that in fact the applicant had tendered those documents to Urban Co-operative Bank Limited, Pune and an account was opened in the name of Nikhil Chavan. It is not the case of the prosecution that the applicant had opened the said account. In view of this, the applicant deserves 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 :

ORDER

- 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.1,00,000/- with one or more solvent sureties in the like amount.

- iii) The applicant shall report to the concerned police station from 19th July 2018 to 22nd July 2018 everyday between 10.30 am. to 1.00 pm. and co-operate with the investigating agency.

(Smt. Sadhana S. Jadhav, J)