

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

ANTIICIPATORY BAIL APPLICATION NO. 2001 OF 2017

Tatyasaheb Shrihari Wanve. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Sanjeev P. Kadam I/b. Mr. Prashant S. Hagare, advocate for Applicant.

Mr. N.B. Patil, APP for State.

Mr. T. U. Khade, PC, Baramati Town Police Station.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 22, 2018**

P.C.:

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

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 202 of 2017 registered at Baramati City Police Station,

for offence punishable under section 409, 420 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that Complainant Rangnath Genaba Mhatre lodged a report at the police station on 17/3/2017 alleging therein that he is owner of land bearing Gat No. 195, 176, 197, 199 at village Shindewadi. The complainant has learnt that Anandrao Shinde would assist the people who are applying for agricultural loan. Therefore, on 5/9/2015 he had met Rajiv Polke, Manager of Punjab National Bank and has expressed his desire to obtain a loan. The Branch Manager had directed him to one Mr. Ubale. He had met Mr. Ubale in his office. That the complainant was assured that he would be helped to obtain loan as they are acquainted with the officers of the bank. The complainant had handed over all the relevant documents. Tulshiram Shinde had completed the file and quotation and submitted it to the Bank. The original accused Nos. 1 and 2 had visited the site and had sanctioned loan of Rs. 29,70,000/-. They had taken Rs.50,000/- towards processing fees. The complainant was directed to deposit an amount

in the name of Tulshiram Shinde. The complainant had obliged. However, Shinde Engineers had not commenced the work and neither the land was developed. Further complainant was directed to take away money and to get the work done from some other contractor. But by then, Shinde Engineers as well as bank officer had obtained huge amount from the complainant and therefore, the complainant was constrained to file report on the basis of which Crime No. 202 of 2017 is registered.

4 As far as the present applicant is concerned, his name is not reflected in the FIR neither the complainant had ever met the present applicant. In the course of investigation, it had transpired that an amount of Rs. 17 Lakhs was transferred in the account of the present applicant is account in the Indian Overseas Bank.

5 The learned Counsel for the applicant submits that in fact, Anandrao Shinde had taken handloan from the present applicant which was paid to him by cheque. That on 11/3/2015 the amount of

Rs. 3 Lakhs was transferred from the account of the present applicant to Anandrao Shinde. Similarly, Rs. 12 Lakhs were paid on 12/2/2015. On 22/5/2015 Rs. 1 Lakh was paid. Similarly, several amounts were paid to the accused Anandrao Shinde much before the registration of FIR and finally on 1/10/2015 Anandrao Shinde had repaid the amount of Rs. 17 Lakhs to the present applicant. Learned APP submitted that the amount of Rs. 17 Lakhs. The amount which Anand Shinde had received from the complainant for any other such borrower of Punjab National Bank. It is true that there is every possibility that the said amount is deposited from the account of Anand Shinde which he had earned by illegal means. However, it cannot be said that the present applicant was also involved in the said scam and he had no knowledge about the same. He had received the amount which he had paid as handloan to Anandrao Shinde.

6 In the above mentioned facts, the applicant deserves to be granted pre-arrest bail. However, it is made clear that the observations are restricted to an application under section 438 of the

Code of Criminal Procedure, 1973 and the same shall not be taken into consideration for quashing of FIR, discharge application or at the time of trial.

7 Hence, following order is passed:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 202 of 2017 registered at Baramati City Police Station, 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 police station as and when called and cooperate with investigating agency.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)