IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2423 OF 2018

Ketan Anant Raj .. Applicant
Vs.
Inspector of Police & Anr. .. Respondents

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Mr.Manohar Ramsinghani i/b. Mr.D.M. Galani, Advocate for the Applicant.
Mr.S.R. Agarkar, APP for the Respondent – State.
Mr.Rupesh D. Naik, API, Vashi Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : NOVEMBER 27, 2018.

P.C. :

The applicant is apprehending arrest in C.R.No.471 of 2018, registered with Vashi Police Station, Navi Mumbai, for the offence punishable under Sections 420, 465, 468, 471 and 473 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was lodged at the instance of Navi Mumbai Cooperative Bank having its head office at Navi Mumbai on 15th October, 2018.

2 In nutshell, the prosecution case appears to be that the applicant had obtained loan from the complainant Bank in the

sum of Rs.50,00,000/-, and there was a default in payment of installments. It is alleged that the certificate issued by the co-operative Society indicating that subject property is not mortgaged, which is submitted by the accused is forged document.

3 Applicant had preferred an application for anticipatory bail before the Sessions Court. During the pendency of the said application, the applicant was granted interim protection with directions to attend the concerned police station. Apparently, it is undisputed that the applicant has attended the said police station. The specimen signature of the applicant has been obtained. Application for anticipatory bail was however rejected subsequently.

4 Learned counsel for the applicant submits that the Bank has initiated action by lodging FIR belated. There is no motive to commit the crime, as it is not disputed that the applicant is the owner of the subject property. It is also pointed out that the Bank had already initiated civil action for attachment of property. The complaint for an offence punishable under Section 138 of the Negotiable Instruments Act is also lodged

before the competent Court and the same is pending. Learned counsel also pointed out that the Cooperative Society had forwarded the intimation stating that the document was not issued by them on account of their bias against the applicant as he has initiated a civil suit against the Committee of the society. It is also pointed out that the disputed document was sought directly from society and the same received by the Bank, which is apparent from the endorsement appearing on the document.

5 Learned APP, however, submitted that forged seal of the society which was used in preparation of document is to be recovered from the applicant. Custodial interrogation of the applicant is necessary. On perusal of the documents, it is apparent that the criminal action was initiated belatedly. Applicant has admittedly cooperated with the investigation by attending the police station. His specimen signature has already been obtained by the police. Bank had already initiated civil action and subsequently filed FIR. The entire matter relates to the documents. It is pertinent to note that the loan was sanctioned by the Bank, after perusing all the requisite documents, and, subsequently, it is alleged that the disputed document is forged. Considering the factual matrix in the case,

prosecution has not made out case for custodial interrogation of the applicant and the case for grant of anticipatory bail is made out.

6 Hence, I pass the following order:

:: <u>O R D E R</u> ::

(i) Anticipatory Bail Application No.2423 of 2018, is allowed;

(ii) In the event of arrest of the applicant in connection with C.R. No.471 of 2017, registered with Vashi Police Station, Navi Mumbai, he be released on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

(iii) Applicant is directed to attend the investigating officer of Vashi Police Station, Navi Mumbai, as and when called, till further orders;

(iv) Anticipatory Bail Application No.2423 of 2018, stands disposed of.

(**PRAKASH D. NAIK, J.)**