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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.831 OF 2018

Mahesh Shashikant Dange ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Mr.Manoj Mohite with Mr.Amogh Singh i/b. Dhirendra P.Singh for the applicant.

Mr.S.S.Hulke, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 24, 2019

P.C.:-

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

2. In crime No.312/2017 for offence punishable under sections 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code registered with Pandharpur police station, District Solapur, the learned Additional Sessions, Pandharpur vide order dated February 12, 2018 passed below Exhibit-1 in Criminal M.A. No.52/2018 granted pre-arrest bail in favour of the applicant on condition that the applicant shall deposit an amount of Rs.50 lakhs

in Bank of Maharashtra, Pandharpur Branch, as a condition precedent. As such, this application for modification of the said condition.

3. As the investigation in the matter was completed, the charge-sheet was already filed.

4. The sum and substance of the prosecution case is, main accused namely, Rajendrasinh Sopanrao Suryavanshi was co-owner of Gut-317 admeasuring 11.15 Hectors and by mortgaging the said land, CC limit from a Co-operative Bank was sanctioned, of which enhancement and taking over was sought from the Bank of Maharashtra.

5. The applicant claims to never been posted as a Branch Manager or recommending authority with the said branch of Bank of Maharashtra as it is the case of the applicant that at the relevant time, he was posted as a Manager (RMO), Solapur wherein he has recommended the sanction of aforesaid loan based on the recommendation of the Branch Manager and the title verification certificate issued by the Panel Advocate of the Bank.

6. In the investigation of the offence, so also in the departmental proceedings, it is pointed out that the Branch

Manager is held to be responsible and appears to have been involved in the offence. In this background, by way of present application, relaxation of the condition of deposit of Rs.50 lakhs imposed while granting bail by Sessions Judge is sought.

7. Mr.Mohite, learned counsel for the applicant has taken me through the entire charge-sheet so as to demonstrate that there is no material on record to infer *prima facie* involvement of the applicant.

8. The material on record i.e. application of loan, title certificate alleged to have been issued by the Panel Advocate of the Bank and the recommendation of the Branch Manager perhaps prompted this applicant to recommend the case of co-accused for sanction of loan. There is one more facet to the matter. Very manual which deals with the inspection and audit of the bank in question provides for staff accountability. Clause 3 therein categorically provided that while examining the staff accountability, for the default of the Bank Advocate the officer like the applicant cannot be held responsible. Said clause reads as under :-

'Accountability in respect of non-encumbrance Certificate – At

times, the legal opinion / non-encumbrance Certificate issued by Bank's Counsel or Legal Retainer may turn out to be faulty / defective, incorrect, thereby jeopardizing bank's interest. In such cases, the Bank shall initiate appropriate action against the Bank's Counsel / Legal Retainer issuing such certificate, but no action be warranted against the appraising / recommending or sanctioning authority.'

9 From the record, it can be inferred that there is no *prima facie* material to infer direct involvement of the applicant in the crime in question to the extent of illegal recipient of the amount involved in the crime in question. Needless to say that the applicant is already in the employment of Bank of Maharashtra and he has an unblemished record. That being so, in my opinion, a case for modification of the order is made out.

10. In view of the above, in the order dated February 12, 2018 passed below Exhibit-1 in Criminal M.A. No.52/2018 by the learned Additional Sessions Judge, Pandharpur, the condition No. (iv) stands deleted. Rest of the order granting protection to the applicant shall stand as it is.

(NITIN W. SAMBRE, J.)