IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1241 OF 2019

Azim Salim Pathan & Anr.] … Applicants

Versus

The State of Maharashtra] … Respondent

Mr. Aditya Desai, Advocate for the Applicants.
Mr. S.H. Yadav, APP for the State/Respondent.
API Satish Pawar attached to Satara City Police Station, Satara present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 29th JULY, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with C.R.No.165/2019 registered with Satara City Police Station, District Satara u/sec. 420, 467, 468, 471, 472 r/w 34 of I.P.C.

2. The offence is registered on 13/03/2019 on the complaint lodged by the Manager of Satara Co-operative Bank Ltd., Branch at Satara. It is alleged in the FIR that, the present Applicant No.2 was an old account holder of the said branch. On 03/11/2016, he brought one Sandeep Patil and present Applicant No.1 to the branch. He

introduced both of them to the first informant. The accused told the first informant that, the accused Sandeep Patil was in the business of transport and he wanted to purchase two trucks. He was in need of loan. The accused requested the first informant to sanction loan. On 07/11/2016 all the three accused came to the bank. The accused Sandeep Patil produced rent agreement and opened an account with the bank. On 10/11/2016 an application was submitted for sanction of loan to the tune of Rs.48 Lakhs. The application was accompanied by the documents showing both these applicants as guarantors for the loan. The application was processed and the Board of Directors sanctioned the loan of Rs.41,58,000/- on 28/11/2016. On the documents sanctioning loan, both these applicants signed as guarantors for the loan. There was a condition that, the accused Sandeep Patil had to give documents in respect of ownership of his land. Both these applicants and the borrower Sandeep Patil had accepted that condition and accordingly documents were signed. The loan amount was taken by accused Sandeep Patil and had purchased two trucks. The first informant had given letter to RTO for showing hypothecation of these vehicles with the bank. Even, thereafter the borrower Sandeep Patil obtained further loan amount for two more vehicles and on the next occasion for one vehicle. Thus, in all he obtained loan of Rs.96,37,000/-. Initially some installments were paid. But subsequently the installments were not paid. Thereafter, the bank started proceedings u/sec. 101 of the Maharashtra Co.operative Societies Act, 1960 for recovery of loan amount. During recovery proceedings the informant inspected the documents and he came to know that, the 7/12 extracts which was produced by the borrower before the bank for obtaining loan were forged documents. Similarly, RTO documents showed that, the hypothecation in favour of the bank was not shown in the documents of the vehicle. On this basis, the FIR was lodged.

3. Heard Mr. Aditya Desai, Ld. Counsel for the Applicants and Mr.S.H. Yadav, Ld. APP for the State/Respondent.

4. Ld. Counsel for the applicants submitted that, the applicants merely stood as the guarantors and they had nothing to do with the main offence of making and submitting the forged documents to the bank for obtaining loan. He submitted that, the vehicles are in the custody of bank and therefore for the investigation purpose custodial interrogation of the applicants is not necessary. He submitted that,

the applicants cannot be held responsible for the documents tendered by the main accused Sandeep Patil.

5. Ld. APP produced investigation papers before me which include rent agreement between the main accused Sandeep Patil and the present Applicant No.2. He submitted that, both these applicants have helped the main offender Sandeep Patil in commission of this offence. The applicants' custodial interrogation is necessary to collect the evidence.

6. I have considered these submissions. The FIR is also supported by the tenancy agreement. The present Applicant No.2 had executed the document showing the main offender Sandeep Patil as a tenant. Based on such documents, the bank account was opened. It is clear that, without help of these applicants, the main offender Sandeep Patil could not have opened the account in the bank and consequently could not have obtained loan. The accused Sandeep Patil was introduced to the first informant on 03/11/2016 and by 10/11/2016 the application for loan was submitted which was sanctioned on 28/11/2016. This shows that, the accused in collusion with each other and with pre-planning had committed this offence. Therefore,

at this stage there is no force in the submissions that the present applicants are not responsible for the acts of the main accused Sandeep Patil. Both these applicants have stood as a guarantors for the loan account and they had specifically accepted the condition that, the documents regarding immovable property of the borrower Sandeep Patil would be given to the bank. Therefore, at this stage, the applicants cannot contend that they were not aware about the forgery of these documents. When, they stood as guarantors, it was their primary responsibility to verify about the genuineness of the documents. It is not a simple question of civil liability but the manner in which the offence was committed shows that all the accused have acted in collusion with each other and the bank was repeatedly cheated. Therefore, custodial interrogation of the applicants is necessary. No case for protection of anticipatory bail is made out. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)