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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 74 OF 2018

Ravi Kisanrao Kulkarni .....Applicant

V/s.

The State of Maharashtra .....Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 347 OF 2018

Bhalchandra Ganesh Joshi ....Applicant

V/s.

The State of Maharashtra ....Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 348 OF 2018

Shrikant Bhalchandra Brahme ....Applicant

V/s.

The State of Maharashtra ....Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 349 OF 2018

Jayant Vishnu Mujumdar ....Applicant

V/s.

The State of Maharashtra ....Respondent

Mr. Jayesh Kocheta a/w Chandrakirti Zende advocate for the applicant in ABA no. 74 of 2018
Mr. Navid Memon for respondent no. 3 in ABA 74 of 2018
Mr. Adwait Bhonde a/w Mr. Ameya Dange advocate for the applicants in ABA nos. 347/18, 348/18 and 349 of 2018
Mr. N. B. Patil APP for the State
Mr. Ravindra S. Pachundkar for original complainant in all matters

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 9, 2019.

P.C.

Applicants are seeking pre-arrest bail in crime no. 534 of 2017 registered with Vishrambaug Police Station for offence punishable under sections 406, 420, 465, 467, 468 & 471 r/w 34 of the Indian Penal Code.

2 As far as case of the applicant in Anticipatory Bail Application no. 74 of 2018 is concerned, complainant Bharat Bhujbal, the Proprietor, Unitech Private Limited Company, was having business

relations with the present applicant who is also claimed to be Proprietor of M/s Fusion Control. It is the case of the complainant that since the present applicant was in need of financial assistance, in December 2006, he applied and obtained C.C. loan to the tune of Rs. 1.25 Crores from the Bank of Maharashtra, Bajirao Road Branch, Pune for which complainant stood as co-guarantor with wife of the applicant. Thereafter, in September 2007, applicant claimed that he has orders to be executed worth 25 Crores and as such he was in need of financial assistance and accordingly sought enhanced C.C. limit by 2.25 Crores. The C.C. limit was sanctioned by the bank for which the complainant admittedly stood co-guarantor as above. According to the complainant, on 30/11/2010, he received a notice from the bank stating that he is the guarantor for a loan amount of Rs. 13 Crores whereas in fact, complainant claimed to have been guarantor for an amount of Rs. 3 Crores and 50 Lakhs only. Thereafter, the complainant applied to the bank on 15/12/2010 seeking entire details of the loan transactions to which the Bank failed to respond. According to the complainant, on 06/09/2017, he was served with the notice from the Debt Recovery Tribunal upon a claim lodged by the Bank of Maharashtra for recovery of the sum of Rs. 13 Crores. He having been surprised, with the help of lawyer, obtained entire details from the Tribunal and lodged complaint against the present applicant alleging that the applicant in connivance with bank officials has practiced fraud on the complainant and has obtained enhanced loan of Rs. 13 Crores through he never stood guarantor for amount over and above C.C. limit of 3.5 Crores. As such, offence in question.

3 The learned counsel for the applicant Shri. Kocheta would urge that entire documents on record including the admission given by the complainant of guarantying C.C. limit of Rs. 3.5 Crores is nothing more than admitted business relations and transactions. According to the learned counsel, since the complainant and applicant were close friends, the complainant and applicant always helped each other in business transactions and as such, it is the complainant and complainant only who guaranteed the loan of Rs. 13 Crores. According to the learned counsel, it is only after the receipt of notice from the Debt Recovery Tribunal, to wash away the

responsibility/liability to pay amount of loan, a false case is being initiated against the applicant. The learned counsel then would urge that there are various documents on record so as to infer about the business transactions between the parties i.e. applicant and complainant. According to him, there are two actionable claims pending at the behest of the applicant against two listed companies wherein the recovery to the tune of Rs. 10 Crores is to be effected which if allowed, entire liability can be satisfied. In addition, according to him, the properties of the applicant are already auctioned by the bank and as such amount of Rs. 2 Crores and 5 Lakhs out of 13 Crores is already realized. In addition, the learned counsel would urge that the Financial Institution is already considering the one time settlement proposal given by the applicant. As against the one time settlement offer of Rs. 4.61 Crores by the Bank, applicant has already made an offer of Rs. 2.9 Crores. As such, according to him, applicant is liable to be released in the event of arrest.

4 *Per contra* the learned APP submits that there is sufficient

material to infer *prima facie* involvement of the applicant in the crime in question. According to him, the fact that complainant stood guarantor for C.C. limit for 3.5 Crores is not disputed by the complainant, however, subsequent loan transactions wherein the complainant is shown to have been guarantor are seriously disputed. The investigation carried out till date reflects that the complainant has not signed as a guarantor on the loan documents of which the applicant is beneficiary. According to him, since it is an economic offence same is required to be viewed seriously. He sought rejection.

5 Considered rival submissions.

6 The offence in question came to be registered against the applicant on 14/12/2017 and the applicant was enjoying interim protection granted vide order dated 24/01/2018 subject to depositing an amount of Rs. 10 Lakhs. Admittedly, till date, applicant has failed to deposit the said amount in this Court as he has deposited only Rs. 4.5 Lakhs as against which the liability is more than 13 Crores.

7 Apart from above, the investigation carried out till date depicts that the loan documents are not signed by the complainant and there is sufficient and incriminating material in the investigation to infer that present applicant, the financial beneficiary in the offence in question has forged the signature of the guarantor i.e. complainant.

8 In spite of the pendency of prayer for grant of pre-arrest bail for more than one year, applicant is not in a position to settle the claim of the bank as the bank could recover only paltry amount upon auctioning mortgaged property. The entire conduct of the applicant of mortgaging the property by valuing the same on higher side and obtaining the loan by forging the signature of complainant as guarantor is required to be viewed very seriously in an economic offence.

9 In the aforesaid background, the claim of the applicant that he intends to settle the matter cannot be accepted in absence of any

bonafides. That being so, Anticipatory Bail Application no. 74 of 2018 is rejected.

10 So far as the applicants in Anticipatory Bail Application Nos. 347/18, 348/18 and 349/18 are concerned, they claimed to be officials of the Bank of Maharashtra who have admittedly processed the prayer for grant of loan moved by the main accused Ravi Kulkarni. It is an admitted position on record that the applicants at the relevant time were in-charge bank officials who have processed the application for grant and disbursement of loan upon accepting the loan proposal. The investigation reflects that the signature of the complainant on the loan proposal was forged. The Bank Manual contemplates that the guarantor needs to execute his guarantee before and in presence of bank officials upon disclosing his identity.

11 Once in the investigation it has come on record that the loan was disbursed against the loan proposal which was not signed by the complainant/guarantor, the fact remains, based on material on record, it can be inferred that the applicant connived with the main

accused and has sanctioned and disbursed the loan. In the aforesaid background, the contentions of the applicants that there is no specific role attributed to the applicants, applicants stood retired way back from the employment of the bank will be of hardly any consequence, particularly in the backdrop of a serious economic offence. As such, for the aforesaid reasons including reasons recorded for rejecting the bail application of main accused Ravi Kulkarni, Anticipatory Bail Application Nos. 347/18, 348/18 and 349/18 also stand rejected.

[NITIN W. SAMBRE, J.]