IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1983 OF 2018

Narayan Bhiku Gavhane ...Applicant
Vs.
State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 677 OF 2019

Rahul Rohidas Londhe ...Applicant
Vs.
State of Maharashtra ...Respondent

- Mr. Ujwal Agandsurve with Mr. Ashish S. Gaikwad, Ms. Bhavna Khichi and Mr. Agavekar, Advocates for the Applicant in ABA 1983/18.
- Mr. Prasanna Shahane I/b Mr. Milind Deshmukh, Advocate for applicant in ABA 677/19.
- Smt. A. A. Takalkar, APP for the State.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd JULY, 2019

P.C. :

1. Both these applications arise out of the investigation conducted in CR No. 490/18 registered at Shikrapur Police Station under Sections 420 and 406 of the IPC. Therefore, both these applications are decided by this common order.

2. The applicant Narayan Gavhane in ABA 1983/18 is one of

the borrowers of Annasaheb Magar Sahakari Bank, Koregaon-Bhima branch, Tal. Shirur. The applicant Rahul Londhe in ABA 677/19 was the branch manager of the said bank at the relevant time.

3. The FIR is lodged by One Dhondiram Patil, who was the branch manager of the Annasaheb Magar Sahakari Bank since 27th September 2016. He has stated in his FIR that, while he was verifying the previous loan transactions of his branch, he noticed that one Hanumant Gavhane (Son of the applicant Narayan Gavhane) had obtained a loan of rupees forty eight lakhs for purchasing an expensive car. From that loan account Rs. 46,77,790/- were outstanding. When the first informant verified the documents in detail, he found that Hanumant Gavhane had submitted quotation of Rs. 85 lakhs purportedly issued by M/s Ansul Motors. Since his own income was falling short, the present applicant was made co-borrower for that loan. One Sachin Satpute was the guarantor for that loan.

4. It is further alleged that the present applicant Rahul Londhe transferred Rupees Forty Lakhs in the account of M/s Ansul Motors

maintained with Suvarnyug Sahakari Bank, Chandannagar, Pune through RTGS on 2nd February 2016. Rupees Three lakhs were used for allotment of shares of the bank and rupees five lakhs were deposited in the cash credit account of the borrower by way of advance payment of installments. It is further mentioned in the FIR that the borrower Hanumant Gavhane was time and again told to produce the RTO documents, but he avoided to do so. It was further noticed by the first informant that the showroom by name of M/s Ansul Motors was not even in existence. The amount was fraudulently transferred in that name and thereafter it was transferred in the account of Swabhiman Developer, which was a proprietory firm of Sachin Satpute. Based on these, the FIR is lodged.

5. Heard, Mr. Ujwal Agandsurve with Mr. Ashish S. Gaikwad, Ms. Bhavna Khichi and Mr. Agavekar, learned Advocates for the Applicant in ABA 1983/18, Mr. Prasanna Shahane, learned advocate for applicant in ABA 677/19 and Smt. A. A. Takalkar, learned APP for the State.

6. Learned counsel for the applicant Narayan Gavhane

submitted that a day prior to lodging of the FIR, the applicant had given his own complaint to Shikrapur Police Station, in which he had alleged that the first informant, i.e. bank manager Shri Patil, had obtained his signatures, on some forms and thereby he was cheated. He, therefore, submitted that as a counter claim to this, the first informant had lodged this false complaint. He further submitted that the present applicant has no concern with the entire loan transaction. The loan was obtained by his son and real beneficiary was Sachin Satpute, because the loan amount was transferred in the account of M/s Ansul Motors and was further transfer to the proprietory firm of Sachin Satpute. He therefore, submitted that the present applicant Narayan Gavhane is innocent and his custodial interrogation is not necessary.

7. Learned APP opposed these submissions. She pointed out that the applicant Narayan Gavhane was one of the borrowers who had obtained loan in the name of a non existent firm.

8. I have considered these submissions. The contention that the applicant Narayan Gavhane himself had given complaint against the first informant has no force. The applicant cannot escape from

the fact that loan was obtained fraudulently, much before the first informant became a branch manager at that branch. The documents speaks for themselves. The applicant is shown as co-borrower with his son. The vehicle was never purchased because the firm in the name by M/s Ansul Motors is not even existence. The evidence in respect of money trail and other conspiracy is to be collected. In this view of the matter, custodial interrogation of this applicant Narayan Gavhane in ABA 1983/18 is necessary. Hence, his application is rejected.

9. Insofar as the other applicant in ABA 677/19 Rahul Londhe is concerned, he was the branch manager when that loan was disbursed. The learned counsel for the applicant submitted that it was practically impossible for him to process and verify claims of each of the borrowers. He submitted that there is special committee for disbursement of loan and it was the job of the committee to verify the documents and claims of the borrowers. He further submitted that transferring the amount by RTGS does not make any difference because the amount is ultimately transferred in the name of the firm in whose name the loan

amount was directed to be transferred. He further submitted that he has committed no offence.

10. Learned APP submitted that the main allegation against him is that instead of Demand Draft, he transferred the amount through RTGS. This did not show any criminal intention because the loan has deposited in the same account. The fact that M/s Ansul Motors never existed is something that this applicant should have verified, but at this stage the contention of the learned counsel for the applicant in that behalf also has some force. Being a branch manager, he could not have visited all the places for verification. It was the duty of the loan committee. It is quiet apparent that the loan was disbursed in the name of Ansul Motors, which was not in existence. However, at this stage, it is difficult to hold that disbursement of loan was fraudulently done by the applicant in the name of M/s Ansul Motors. Subsequently, the investigation carried out so far does not show, that the present applicant has benefited in any manner through this transaction.

11. The learned counsel for this applicant has submitted that he had resigned from his job from 4th April 2016. He submitted that

documents are verified periodically and on only four times in a year. Therefore, by the time he resigned, there was no occasion to verify the RTO documents. Even these submissions has some force because first informant, who had succeeded the applicant, had verified the documents in the month of September 2016. At this stage, there is scope to believe that the applicant Rahul Londhe was negligent, but he may not have committed any offence. Therefore, his custodial interrogation will ruin his future forever.

12. In this view of the matter, he can be made to attend the concerned police station for cooperating with the investigation. Hence, the order:-

ORDER

(i) ABA 1983/18 is dismissed.

(ii) In the event of his arrest in connection with C.R. No. 490/18 registered at Shikrapur Police Station, the Applicant Rahul Rohidas Londhe, is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(iii) The Applicant Rahul Rohidas Londhe shall attend the concerned Police Station from 6th August 2019 to 9th August 2019 from 3.00 to 5.00 p.m. and shall cooperate with the investigation.

(iii) ABA 677/19 stands disposed of accordingly.

(SARANG V. KOTWAL, J.)