

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 747 OF 2018

Abhishek Badriprasad Jaiswal & Anr. ... Applicants

Versus

State of Maharashtra & Anr. ... Respondents

Mr. Harshad E. Palwe for Applicants.

Mr. S. H. Yadav, APP for Respondent No.1 – State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 4, 2019.

P.C. :

. Heard learned Counsel for Applicant. Both these Applicants are Directors of Saptashrungi Ispat Private Limited with effect from October 18, 2007 as could be inferred from Form – 32.

2. Amongst other one of the business which were to be carried out by the said Company is of importing coal and applied for grant of loan with the State Bank of Jaipur and Bikaner.

3. It appears that the complainant though not a Director is shown to be one of the co-borrower and the Bank officials inspite of the

above status of the complainant sanctioned huge loan which runs into crores in favour of the Company.

4. It is a case of the complainant that in the loan transaction an assurance of he being impleaded as a Director in the Company is neither honoured nor the repayment of loan was made. Rather the loan was enhanced by practicing fraud.

5. Since the commitment made to the complainant was not honoured and the cognizance of the complaint was not taken by the investigating agency pursuant to an order passed under Section 156(3) of the Code of Criminal Procedure the offence came to be registered against the Applicants.

6. The learned Counsel for Applicants made two fold submissions – (a) dispute if any in between the complainant and Applicants is arising out of the contractual obligations and a civil suit is already initiated by the complainant being RCS No. 474 of 2017 pending on the file of Civil Judge Senior Division, Nashik; and (b) it was the father

of the present Applicants who handled the business, expired in 2016 and in the act of the father the Applicants cannot be blamed.

7. The learned APP opposed the claim for grant of bail. Having considered the rival submissions, what is noticed is, the loan was applied and obtained from the Nationalized Bank by citing complainant as a borrower so also a guarantor. The bank officials acting in connivance with the Applicants have sanctioned the loan in favour of the Company of which Applicants are Directors even though complainant was neither a Director of the Company nor a stake holder.

8. In the aforesaid background, there appears to be some substance in the claim putforth by the complainant that the Applicants have committed fraud and cheated him.

9. There is no convincing explanation coming forth from the Applicants as to in what capacity the Applicants involved the complainant in the alleged loan transaction thereby creating huge financial liability for him without he being impleaded as independent director or that of a financier or stake holder. Rather it is apparent that the Applicants have

enjoyed the amount disbursed in favour of the Company of which they are Directors at the cost of complainant.

10. That being so, having regard to the fact that both the Applicants who are Directors in the Company since 2007 appears to have cheated the complainant. In the aforesaid background, no case for grant of bail is made out.

11. As such, Anticipatory Bail Application stands rejected.

(NITIN W. SAMBRE, J.)