

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

**ANTICIPATORY BAIL APPLICATION NO. 918 OF 2019
WITH
CRIMINAL APPLICATION NO.1090 OFR 2019**

Shripad Sharad Mule ...Applicant

Vs.

State of Maharashtra ...Respondent

- Mr. Raviraj R. Paramane, Advocate for the Applicant.
- Smt. A. A. Takalkar, APP for the State.
- Mr. Mahendra M. Agavekar, Advocate for Intervener.
- Mr. Vilas A. Ghisadi, API, Ghoti Police Station, Nasik Rural.

CORAM : SARANG V. KOTWAL, J.

DATE : 23rd AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. 86/17 registered at Ghoti Police Station, Nasik for the offences punishable under Sections 420, 411, 467, 468, 471, 409, 417 read with Section 34 of the IPC.
2. The Fir is lodged pursuant to the order passed by the JMFC, Igatpure, directing the Ghoti Police Station for carrying out investigation as per Section 156 (3) of the Cr. P. C. The order was passed on 3rd February 2017 in MA No. 275/16.
3. The allegations are made by one Sneha Ruparel that she

alongwith her sister Purvi Thakkar were owning and possessing ancestral property at gat no. 175 at Igatpuri, Nasik. The applicant was owned a private limited company by name Nisarga Flora Private Limited. The business of the applicant was of constructing green houses and give them on rent. The applicant contacted the informant and represented that this business of green house was yielding rupees one lakhs per month. The informant was persuaded to take part in that business. For that purpose the informant was also persuaded to mortgage her property with the bank. It is alleged that the applicant in collusion with the bank manager Ajit Gokhale got loan sanctioned and for that purpose the informants other property at gat no. 545 admeasuring 99 R was mortgaged for obtaining loan to the tune of Rupees One Crore Fourty Two Lakhs Seventy Four Thousands Six Hundred Twenty Two. It is alleged that the applicant obtained her consent fraudulently and obtained loan. The loan was transferred in the account of the applicant and not in the account of the informant. Thereby causing loss to the informant. Based on these allegations, the FIR was lodged.

4. Heard, Mr. Paramane, learned counsel for the applicant as well as Smt. Takalkar, learned APP for the State and Mr. Agavekar, learned counsel for the intervener. A copy of the sessions court's order rejecting anticipatory bail of the applicant is taken on record and marked 'X' for identification.

5. Learned counsel for the applicant submitted that there was nothing fraudulent in the entire transaction. The informant had willingly entered into this transaction for her own benefits. Subsequently, dispute arose between the parties and therefore, this false FIR is lodged. He submitted that the amount was deposited in the applicant's company's account at the behest of the informant herself and that she had instructed the bank in the writing to that effect. He, therefore, submitted that no offence is committed by the applicant and custodial interrogation is not necessary.

6. On the other hand, learned APP submitted that the amount involved is huge. The informant is cheated of her amount. The fact remains that the amount has not come in her account and therefore, custodial interrogation may be granted.

7. I have considered these submissions. I have also perused the

papers of investigation carried out so far. Investigation papers show the direction given by the informant to the bank to deposit the loan amount directly in the account of the applicant's company. The investigation does not reveal that the signatures on such instructions are forged. Therefore, at this stage, there is considerable force in the submissions of Mr. Paramane, that the informant herself had directed the bank to deposit the amount in the account of applicant's company. Moreover, the investigation shows that some preliminary work in respect of constructing green house in the form of leveling etc. was started. It shows that there was some transaction between the informant and the applicant for such construction. Initially the FIR was not lodged in the police station and only pursuant to the orders passed by the learned Magistrate, this FIR came to be lodged.

8. Considering, the background it does not appear that any fraud was committed by the present applicant. Therefore, his custodial interrogation is not necessary. The amount was given in his account and if the transaction could not be completed, the informant does have her other remedies available which she is free

to pursue.

9. In this view of the matter, custodial interrogation of the applicant is not necessary. Hence, following order is passed:-

ORDER

(I) In the event of his arrest in connection with C.R. No.86/17 registered at Ghoti Police Station, Nasik, the Applicant 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.

(ii) The Applicant shall attend concerned Police Station from 29th August 2019 to 31st August 2019 between 01.00 p.m. to 04.00 p.m. and shall co-operate with the investigation.

(iii) Application stands disposed of accordingly.

(iv) Intervener's application No. 1090/19 stands disposed of accordingly.

(SARANG V. KOTWAL, J.)