IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 944 OF 2019

Ali Mohd. Ishtiyaque Qureshi …..Applicant

Vs.

The State Of Maharashtra …..Respondent

Mr. S.A. Shaikh for the Applicant.
Ms. J.S. Lohokare APP, for the Respondent-State.
Mr. Nawade, API Nehru Nagar Police Station.

CORAM : A. S. GADKARI, J.
DATE : 18th APRIL, 2019.

P.C.:-

This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No. 401 of 2018 registered with Nehru Nagar Police Station, Mumbai under Sections 409, 420, 465, 467, 468 and 471 of the Indian Penal Code.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the record of investigation.

3 The first information report is lodged by Shri. Abhishek Maurya, Credit Manager of *"On EMI Technology"*. It is stated that, the said company is a Non-Banking Financial Company (NBFC) and was working as per the directives issued by the Reserve Bank of India.

It is the prosecution case that, the Applicant is the owner of M/s. Nayab Collection. The Applicant is in the business of sale of mobile phones. The Applicant had entered into an agreement with the informant's company for providing e-digital loans to the customers who were intending to purchase mobile hand-sets by availing loan facility from the said finance company.

As per the contract, it is the Applicant who was to accept the documents from the customers for loan and to forward it to the company after due verification. It is alleged that, initially since March, 2017 to October, 2017, the Applicant complied with the terms and conditions of the contract diligently. It is further alleged that, subsequently, it was noticed by the company that, certain loan amounts wherein, the Applicant had forwarded documents of the alleged customers, loans have been disbursed in the name of fictitious entities and the said company was not getting repayment of the loan.

The company, therefore, contacted the alleged defaulters, who in turn, informed the company that, they neither purchased mobile phones from the shop of the Applicant nor have availed any loan facility. It is alleged that, the Applicant by submitting bogus documents of fictitious entities made representation/submitted bogus loan proposals to the said finance company and induced it to part with an amount of approximately Rs.15,15,960/- towards the alleged mobile hand-sets purchase.

4 Mr. Shaikh, the learned counsel for the Applicant submitted that, the Applicant on several occasions has attended the Investigating Officer and has submitted all the relevant documents, the copies of which are with him. He submitted that, the Applicant in due course of business, collected the documents from the customers and were forwarded to the said finance company. He further submitted that, it was the duty of the said finance company to re-verify the bonafide of the said proposal and only then to disburse the loans to the concerned. He, therefore, prayed that the Applicant may be protected by pre-arrest bail.

5 The record of investigation indicates that, there are 7 persons whose bogus documents are forwarded by the Applicant to the finance company and has availed loan for alleged purchase of mobile hand-sets. It is to be noted here that, the informant's company is working in the field of providing micro finance to the needy persons for purchase of electronic gadgets such as mobile hand-set. As per the contract between the Applicant and the company, it was the Applicant

who was supposed to accept the documents, verify it and then forward it to the company and the company thereafter, used to transmit the said loan amount by electronic mode in the account of the Applicant towards sale of the mobile hand-set to the concerned purchaser/customers.

6 It *prima facie* appears that, the Applicant by exploiting the system, has submitted the documents which are not of the genuine customers to the finance company and has defalcated the aforesaid sum of Rs.15,15,960/-. *Prima face*, it appears that, there is sufficient material available on record to show his clear complicity in the present crime.

7 In view of the above and after taking into consideration the gravity of the offence and the serious allegations against the Applicant, this Court is of the opinion that the Applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

(A.S. GADKARI, J.)