IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1450 OF 2019

Anirudha More S/o. Avinash More] … Applicant

Versus

1. The State of Maharashtra]
2. Vishal Arun Dani] … Respondents

Mr. Abhaykumar Apte, Advocate for the Applicant.
Ms. S.S. Kaushik, APP for the State/Respondent No.1.
Mr. Anilkumar Patil a/w Mr. Rohan Kaiche, Advocate for Respondent No.2.
PSI V.K. Shinde attached to EOW, Nashik City present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 9th AUGUST, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.177/2019 registered with Sarkarwada Police Station, District Nashik on 11/07/2019 u/sec. 420, 467, 468 of I.P.C.

2. The offence is registered on the basis of the FIR lodged by one Vishal Dani who was the Branch Manager of Business Co-operative Bank Ltd., M.G. Road Branch, Nashik. According to him, his bank was

advancing loan on accepting deposits in the form of gold. At the time of such deposit, the valuer was called and after his valuation proportionately loans were disbursed. The present applicant was appointed as a valuer for the bank. After such valuation the gold was kept in the bank. It was sealed with signature of the Branch Manager, valuer as well as the person who was obtaining loan. Thereafter, the gold was kept in the locker of the bank. After the entire loan was repaid, the gold was returned after verification. The bank came to know that, some of the borrowers had not repaid the loan amount and had defaulted in making the payments of installments. The FIR mentions 5 to 6 such persons. The bank had published a notice in the local newspaper expressing its intention to auction the gold deposited by such defaulters. It is mentioned in the FIR that one Soniya Bansode was granted loan to the tune of Rs.24,86,000/- on getting deposit of gold from her. That defaulter had given a letter dated 19/03/2019 to the bank and had stated that, the gold could be sold in auction and the remaining amount be returned to her. The bank was suspicious of her claim. Similarly, one Gaurav Malusare was given a loan to the tune of Rs.15 Lakhs on his depositing gold with the bank. Even, he had not paid the installments. In both these cases, the gold was valued by the present applicant. The bank then approached the police station at Sarkarwada, Nashik and requested them to provide one police officer when the panchanama was carried out. On 04/04/2019 the gold deposited by Soniya Bansode and Gaurav Malusare was taken out from the safe. It was opened in the presence of panchas and it was valued by another valuer Mayur Saraf. It was found that, the gold deposited by these two persons was not real gold but was a different metal altogether. The bank officers were convinced that, the fraud was committed and therefore, the FIR was lodged. The present applicant was the valuer when that metal purported to be gold was deposited with the bank.

3. Heard Mr. Abhaykumar Apte, Ld. Counsel for the Applicant, Ms.S.S. Kaushik, Ld. APP for the State/Respondent No.1 and Mr.Anilkumar Patil, Ld. Counsel for Respondent No.2.

4. Mr. Apte, Ld. Counsel for the applicant submitted that, there was nothing wrong with his valuation. The gold was deposited after valuation was made in presence of the bank officers. He submitted that, the present applicant was not asked to remain present when the gold was taken out and revalued. He submitted that, the investigating

agency has nothing against him showing his connection with the alleged fraud. He submitted that Rs.13,50,000/- is already deposited by the applicant.

5. As against this submission, Mr. Patil, Ld. Counsel for the Intervener submitted that, the bank had sent notice to the applicant to remain present at the time of revaluation and for the purpose of auction. The applicant had avoided to remain present. He had not even accepted the service of such notice. The bank has a copy of notice showing it was not accepted by the applicant. Mr. Patil submitted that, the notice was sent through Registered Post A.D. That notice was accepted on 30/03/2019. However, the applicant had not remained present. Instead, he had sent a letter to the bank disassociating himself with the entire transaction. The copies of these documents are given to Mr. Apte, Ld. Counsel for the applicant. The copies of such documents are taken on record and marked “X” for identification.

6. Ld. APP produced some statements recorded during the investigation. Basically these statements are given by the persons who had deposited gold in the bank. They are also made accused. All

these accused have stated that, the present applicant had suggested that they should deposit gold with the bank. He had assured them that, since he was the valuer, they could easily obtain loan against their deposit. Those accused have further stated that, the installments would be paid by him and his associates.

7. I have considered all these submissions and the documents produced before me. At this stage, the fact cannot disputed that, some other metal purporting to be gold was deposited with the bank and large amount was obtained by way of loan by various persons. Panchanama at the time of revaluation was carried out in presence of police officer, bank officer and the new valuer. The entire process was video graphed. Therefore, at this stage there is clear evidence to show that the major fraud was committed in the bank. The present applicant was the valuer and he cannot escape his responsibility and liability to value the property at the time of its deposit. The applicant had avoided to remain present at the time of revaluation as per documents produced by Mr. Patil. The statements of the co-accused at this stage can be taken into consideration to find the connection of the applicant with the fraud.

8. Considering all these aspects, custodial interrogation of the applicant is absolutely necessary. His involvement and involvement of his other associates can be traced only on his custodial interrogation. Therefore, no case for anticipatory bail is made out. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)