IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1526 OF 2018

WITH

CRIMINAL APPLICATION NO.1192 OF 2018

WITH

CRIMINAL APPLICATION NO.1193 OF 2018

WITH

CRIMINAL APPLICATION NO.1390 OF 2018

IN

ANTICIPATORY BAIL APPLICATION NO.1526 OF 2018

Mr. Satish Appaji Sawant.] … Applicant

Versus

State of Maharashtra.] … Respondent

Ms. Chandana Salgaonkar for Applicant.
Mr. Rajan Salvi, APP for State.
Mr. Rahul R. Singh i/b Mr. Manoj J. Bhatt for Intervenors in all Criminal Applications.
Mr. Balasaheb Kopnar, Sr.P.I. attached to Shivaji Nagar Police, Pune City, present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 01 JULY, 2019

P. C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.92 of 2018 registered with Shivaji Nagar Police Station, Pune, under Sections 420, 406, 467, 468 and 471 read with 34 of the IPC.

2. The FIR is lodged by one Vilas Dhebe who was working as Legal Manager with DCB Bank. In his FIR, he has mentioned that the present Applicant is a builder. Some purported flat purchasers applied for home loans from the DCB Bank. The bank sanctioned home loans in favour of those flat purchasers and the loan amounts were deposited in the bank account of the present Applicant. He has further mentioned in his FIR that the present Applicant gave fake possession letters which were deposited by those flat purchasers with the bank. Initially, the EMIs of the bank loans were paid by those flat purchasers but subsequently, they stopped paying and thus, the bank was cheated for a huge amount.

3. Heard Ms. Chandana Salgaonkar, learned Counsel for the Applicant and Mr. Rajan Salvi, learned APP for State.

4. The Investigating Officer has filed his Affidavit wherein the case investigated by them is mentioned in more details. In the Affidavit, it is mentioned that co-accused Varun Dey, Sudipa Ghosh, Nirmal Dey, Vishal Jadhav, Shakuntala Jadhav, Paras Shah and Pratibha Shah had applied for home loan from the DCB bank during the period 20/02/2016 to 22/08/2016. They had furnished required documents. The bank sanctioned total home loan of Rs.2,14,56,110/-. They had booked flat nos.C-3, E-1, E-2 and E-3 in 'Serenity B' building. They had supplied copies of the agreement and demand letters issued by the Applicant. The sanctioned loan amounts were deposited in the account of the Applicant maintained with Union Bank of India, Kondhwa Branch, Pune. After some days, those purported flat purchasers submitted possession letters issued by the Applicant. Initially, the EMIs were paid but after some time, those flat purchasers stopped paying the EMIs.

5. During investigation, it was found that the PAN card supplied for opening of the bank account of the Applicant was a forged document and it had photograph of one Mohsin Mulla. This Mohsin Mulla had been given Power of Attorney by the present Applicant for registration of agreements. The Applicant has carried out construction work at Sr.No.69, old Hissa No.2/2/1 and new Hissa No.2E, B. T. Kawade Road, Ghorpadi, Pune in the name and style of project as 'Serenity-B' and 'Serenity'. It is the case of the investigating agency that the Applicant opened two accounts, one current account in the name of Satish Sawant Group and the savings account in the name of Satish Appaji Sawant. Both these accounts were opened in the Union Bank of India, Kondhwa Branch, Pune. The investigation shows that cheque-books of both these accounts were collected by Mohsin Mulla and were given to the present Applicant which were regularly used by the present Applicant for withdrawal of the amounts from those accounts. During investigation, statement under Section 164 of the Cr.P.C. of one Asmita Khedekar was recorded. She was working in the office of the present Applicant and in her statement, she has stated that the present Applicant himself was operating those accounts through the cheques signed by himself. The Affidavit of the

Investigating Officer further mentions that the investigation also revealed that the present Applicant was remitting amounts for stamp duty etc. in the account of M/s. Sairam Xerox. The amounts deposited in those accounts were distributed to various persons. The Affidavit also mentions that the Applicant had sold the same flats to different persons and in some cases, even after accepting the amount, had not given the flats to the purchasers.

6. Ms. Chandana Salgaonkar, learned Counsel for the Applicant, submitted that the Applicant himself was a victim at the hands of the afore-mentioned Mohsin Mulla. She submitted that the entire fraud was committed by Mohsin Mulla behind the back of the present Applicant. She submitted that the said Mohsin Mulla was given Power of Attorney only for a limited purpose of registration of agreements but he misused his position by opening these two accounts in question in the Union Bank of India. She further submitted that if the present Applicant himself wanted to open those accounts, then he would not have used a forged PAN card bearing photograph of Mohsin Mulla purportedly showing to be that of the present Applicant.

7. As against this submission, Mr. Rajan Salvi, learned APP for State, submitted that apart from that PAN card, the other KYC documents submitted to the bank were those of the Applicant. He submitted that the investigation carried out so far, revealed that the amounts from those accounts were withdrawn by the Applicant himself by issuing cheques under his own signature. Thus, the complicity of the Applicant is more than clear.

8. Considering the submissions advanced on behalf of the Applicant, the main issue is in respect of operation of those 2 accounts where the amount of loans sanctioned by the complainant bank was deposited. The statement of witness Asmita Khedekar recorded under Section 164 of the Cr.P.C. clearly mentions that the amounts were withdrawn from those accounts on the basis of the cheques issued by the Applicant under his own signature. Thus, at this stage, it cannot be said that the accounts were opened and operated behind the back of the present Applicant. Moreover, at this stage, it cannot be said that the purported flat purchasers had not entered into the agreement with the present Applicant. Mohsin Mulla was only required to register those agreements. However, the agreements were entered

into and executed by the Applicant himself. Therefore, it was necessary for him to have followed it up in respect of payment of the price of those flats when the price was paid by the purchasers by obtaining loan. Therefore, he cannot feign ignorance in respect of sanctioning of loans regarding those flats.

9. Considering all these aspects, the custodial interrogation of the Applicant is absolutely necessary. Therefore, the application is rejected and is accordingly dismissed.

10. At this stage, learned Counsel for the Applicant prays for staying of this order. Considering the seriousness of the allegations, the immediate investigation is necessary and therefore, the request is declined.

11. With dismissal of this application, the intervention applications are also dismissed.

(SARANG V. KOTWAL, J.)