IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2161 OF 2019

Ashok Kisan Mundhe and Anr. .... Applicants
Versus
The State of Maharashtra .... Respondent

Mr. Kalpesh U. Patil, Advocate for the Applicants.
Ms. S. S. Kaushik, APP for the State/Respondent.
Rajendra More, P.I., E.O.W., Pune (Rural), present.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th OCTOBER, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 90 of 2019 registered with Otur Police Station, Pune on 11/06/2019 under sections 406, 408, 409, 420, 463, 464, 465, 468, 470, 471, 120(B), 477(A) r/w. 34 of the Indian Penal Code and under sections 3 and 4 of The Maharshtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999 ('MPID Act' for short).

2. The FIR is lodged by the Auditor working with

Registrar of Co-operative societies. He has stated in his FIR that on instructions of his superior he conducted audit in respect of Shree Mahalaxmi Gramin Bigar Sheti Sahakari Patsanstha Maryadit, Umbraj No.1, Tal. Junnar, Dist. Pune, which was a co-operative credit society, for the period between 01/04/2011 to 31/03/2017. During his audit, he found that loans were distributed to various people without obtaining property security. The loans were mostly distributed in the names of relatives and friends of the Chairman Hanuman Mahadev Hande and Vice Chairman Ramchandra Dharmaji Hande. The FIR mentions that the credit society has suffered losses of more than Rs.30 crores because of this misappropriation and other offence committed by the accused. The applicants were granted loan without proper security and that loan was not repaid. On this basis, the FIR is lodged.

3. Heard Mr. Kalpesh Patil, learned counsel for the applicants and Ms. S. S. Kaushik, learned APP for the State.

4. Learned counsel for the applicants submitted that, both the applicants are relatives of the main accused Hanuman Hande. According to him, Chairman Hanuman Hande has used both the

applicants and has obtained loan in their name. They have not signed a single document for obtaining loan amount and, therefore, they were ignorant of the act committed by Hanuman Hande. He, therefore, submitted that applicants themselves are the victims in the entire fraud because they are arrayed as accused in this case, though, they have not received any monetary benefit in the entire transaction.

5. Learned APP opposed this application and produced before me the documents collected during the investigation. According to the investigating agency, both these applicants were granted loan to the tune of Rs.25 lakhs each. This loan was not repaid. This loan was disbursed without proper security. The investigating agency has recovered two mortgage deeds which show that both these applicants were co-borrowers with the Chairman Hanuman Hande when the loan was taken from the credit society in the year 2016. There are documents showing mortgage deeds whereby the Chairman's house was shown as security. The applicant's signatures appear on these documents. She, therefore, submitted that the applicants were parties in the

agreement, therefore, their custodial interrogation is necessary.

6. I have considered these submissions. In particular, I have seen the mortgage deeds referred to by the learned APP. There are two mortgage deeds dated 29/07/2016. These two separate mortgage deeds are executed by the Chairman Hanuman Hande as co-borrower and main borrower is shown as applicant no.1 in one mortgage deed and applicant No.2 in the other. Both these mortgage deeds mentioned the same house Gut No.676(2)(3)2 from village Dhavalpuri. Thus, it is quite apparent that loan was obtained on fraudulent security documents. Both these applicants had signed these documents, therefore, they cannot plead ignorance of the fact of signing these documents. These documents were used by the Chairman, according to the applicants, for obtaining loan. According to the prosecuting agency, the applicants were party to the fraud to the extent of their loan amount. At this stage, there is sufficient material to believe that the applicants had knowingly abeted the commission of offence for obtaining loan on the basis of mortgage deeds. That loan amount was disbursed in their name. It is necessary to find

money trail of this loan amount. Prima facie, the applicants's signatures appear on the fraudulent documents which were used for obtaining loan. Therefore, their custodial interrogation to find out nature of their involvement is necessary. Therefore, I am not inclined to grant anticipatory bail to the applicants.

7. Application is rejected.

(SARANG V. KOTWAL, J.)