IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

17 ANTICIPATORY BAIL APPLICATION
NO.282 OF 2021

VISHAL RAOSAHEB JADHAV
VERSUS
THE STATE OF MAHARASHTRA

…

Mr.Nikhil P.Dube, Advocate for the applicant.
Mr.S.W.Munde, APP for the respondent-State.

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CORAM: MANGESH S. PATIL, J.
DATE : 03.05.2021.

P.C.

1] Apprehending his arrest in connection with the Crime No.68/2021, registered with Kranti Chowk Police Station, Aurangabad, for the offences punishable under Sections 420, 406, 465, 468, 471 r/w.34 of the Indian Penal Code, the applicant is seeking bail under Section 438 of the Criminal Procedure Code.

2] The FIR has been lodged by an Officer of a Private Financial Institute to the effect that the applicant was working as a Sales Manager and without there being any credit worthiness of the main accused, had forwarded a positive recommendation to his superior, who is the third accused and got the home loan sanctioned. It is alleged that dimensions of the property and its valuation was not sufficient to entitle the main accused to borrow a huge loan of Rs.31 lac. It is, thus, alleged that the applicant along with borrower and his superior managed to get the loan approved and disbursed, causing wrongful gain to the borrower and wrongful loss to the company, by indulging in forgery.

3] The learned Advocate for the applicant took me through the list of responsibilities and duties of various Officers working with the Institution. He would submit that the applicant had no role to play in getting the loan sanctioned.

Pertinently, he would refer to the e-mails wherein he had specifically pointed out in respect of seller and the buyer giving a negative report.

4] The learned Advocate would then point out from the internal enquiry report undertaken by the Institution wherein conclusion has been drawn and responsibility has been fixed on other employees and it has nowhere been concluded about the applicant having played any role and being responsible for disbursement of the loan.

5] Learned Advocate, on instructions, also makes a statement across the bar that after such an enquiry by the Institution a fresh performance appraisal has been undertaken and he has been awarded further increments and still continues in the employment without any blame. He would, therefore, submit that the Investigating

Officer is expected to proceed on the lines of the conclusion drawn by the Enquiry Committee.

6] Learned Advocate would further submit that at this juncture, as can be seen from the report of the internal enquiry, a false and fabricated valuation report purportedly issued under the signature of the authorized valuer Avinash Pawar is the basis for sanctioning the loan allegedly prepared by one Sonu Ghusar. Therefore, the applicant having not played any role in sanctioning home loan to the main accused, he would be put to unnecessary hardship if he is allowed to be arrested without assurance of bail. There are no criminal antecedents. He is ready to co-operate the Investigating Officer and he may be granted anticipatory bail.

7] Learned Assistant Public Prosecutor would submit that the investigation has revealed that in fact the property against which the main accused had applied for loan was not at all legally transferred in his name. Original owner Mr.Bagwan had not authorized his Power of Attorney to sell it and still it was sold to one Jangam and later-on it has been purchased by the main accused. He would, pertinently, point out the vast difference between the amount of consideration mentioned in these two sale deeds, which are executed within a span of 6 days. In the earlier sale, the consideration is mentioned to be Rs.3 lac and odd and within 5 days it has been sold under the second transaction for consideration of Rs.39 lac. He would, therefore, submit that since inception main accused has designedly acted in furtherance of his intention to defraud the Institution.

8] Learned APP would, then, submit that

the applicant was at the relevant time Sales Manager and it is on his report that the loan was sanctioned by the accused no.3. At this juncture, no inference is deducible much less implicating the applicant. If at all he had not played any role in getting the loan sanctioned, the Investigating Officer may come to an appropriate conclusion at an appropriate time. However, considering the *modus operandi* resorted to by the accused persons and enormity of the amount, custodial interrogation of the applicant may have to be resorted to. The application, therefore, be rejected.

9] I have carefully gone through the papers of the investigation as also papers produced by the applicant. As can be appreciated whatever role has now been attributed to the applicant is on the basis of couple of emails forwarded by him on the basis of which, according to the prosecution, the loan was sanctioned. These emails are stated to be dated 30th November 2018. First mail is regarding resident verification of the seller, who had sold the property to the main accused whereas the second mail is in respect of similar report of resident verification of the borrower i.e. the main accused. Pertinently, in this latter report, the applicant had mentioned as under:

> *"Remark Applicant will be shift in new address which, we are collate the property in home loan hence request to you please consider".*

As can be understood, the report nowhere specifically requests for sanction of loan but only requests for considering the proposal. By no stretch of imagination can this be said to be a report which could have a tendency to act as recommendation for sanctioning the loan.

10] Besides, admittedly, it is the third accused Bhushan Devidasrao Baviskar, who was responsible for sanctioning the loan and even he is now being roped in as an accused in the present crime. For that matter even in the internal enquiry report conducted by the Institution the blame has been passed on to him. The enquiry report conspicuously does not even remotely refer to any role having been played by the applicant in getting the loan sanctioned / approved.

11] If such is the state-of-affairs, with the quality of material currently in existence, custodial interrogation of the applicant does not seem to be imperative. He has even subsequently been continued in the service and has been given increments on fresh performance appraisal.

12] Certainly, the applicant would be

put to avoidable hardship if anticipatory bail is refused to him.

13] There is no likelihood of applicant jumping the bail. There are no criminal antecedents and the application deserves to be allowed.

14] The application is allowed. In the event of arrest of the applicant – Vishal Raosaheb Jadhav in connection with Crime No.68/2021, registered with Kranti Chowk Police Station, Aurangabad, for the offences punishable under Sections 420, 406, 465, 468, 471 r/w. 34 of the Indian Penal Code, he shall be released on bail on his executing personal recognizance for an amount of Rs.20,000/- [Rs. Twenty Thousand only] and furnishing a solvent surety in the like amount, subject to following conditions:

(a) He shall attend the concerned Police Station as and when called by the Investigating Officer and shall co-operate him.

(b) He shall not tamper the evidence or influence the witnesses.

[MANGESH S. PATIL, J.]

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