**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

ANTICIPATORY BAIL APPLICATION NO. 455 OF 2021

Dnyaneshwar S/o Tukaram Lahane,
Age : 48 years, Occu. Agril.,
R/o. Bajar Gevrai, Tq. Badnapur,
Dist. Jalna. ...**Applicant**

Versus

The State of Maharashtra ...**Respondent**

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Mr. Pratik A. Bhosle, Advocate for the applicant
Mrs. Vaishali S. Choudhari, APP for respondent / State
Mr. Rahul Singare and Mr. P. V. Kawade, Advocate to assist PP.

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CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 16th September, 2021
DATE OF PRONOUNCING THE ORDER : 20th September, 2021

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 0081 of 2021, registered with Badnapur Police Station, District Jalna, for the offences punishable under Sections 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code.

2. It is the case of prosecution that the informant is a Senior Collection Executive in the Netafim Agricultural Finance Company, which is in the business of providing agricultural loan to the farmers.

3. The applicant had availed loan of Rs. 4,50,000/- in the financial year 2016-17 from the said Company and the informant was appointed as an Officer for collection of EMIs. It is alleged that the applicant did not pay any installment of his loan amount despite reminders. It is further alleged that, in the year 2020, it came to the notice of informant that the applicant has again availed loan from Bank of Maharashtra by furnishing forged NOC and loan account statement of informant-Company and thereby committed the offence of cheating. Accordingly, FIR came to be lodged.

4. Mr. Pratik A. Bhosle, learned Counsel for the applicant, invited my attention to the complaint dated 16.03.2021 made by the applicant to the Superintendent of Police, Jalna, alleging therein that despite clearing all the loan amount, the recovery officer named therein was pressurizing him and threatening him with false implication, if more amount is not paid. According to learned Counsel, the whole loan amount with interest is paid by the applicant herein.

5. The learned Counsel then next submitted that there is a delay in filing FIR and the documents are in the custody of the Investigating Officer and in such circumstances, there is no necessity of custodial interrogation of the applicant and the application deserves to be allowed.

6. Mrs. Vaishali S. Choudhari, learned APP, on the other hand, opposed the submissions by contending that not only the applicant was in arrears of loan amount but by forging the NOC and other statement of loan amount of the informant Company, he again secured loan from the Bank of Maharashtra and thus, in a sense, committed the offence of cheating. Investigation is in progress and in such circumstances, the application does not deserve consideration and needs to be rejected.

7. The admitted position on record is that the applicant had taken loan of Rs. 4,50,000/- from the informant Company. Although the learned Counsel invited my attention to the complaint made by applicant to the Superintendent of Police, Jalna alleging therein that despite clearing payment of loan amount, the Collection Officer of the informant-Company was harassing him, during the course of

argument, when this Court confronted learned Counsel as to whether the applicant has documentary evidence to show that all the loan amount is duly paid by him, as claimed in the complaint, the learned Counsel expressed inability to furnish any document to that effect. This, in itself, loudly demonstrates that the applicant does not have any documentary evidence to show that he had repaid the loan amount with interest. In ordinary course, he should have furnished the documentary evidence about the repayment of the loan amount with interest. That is simply not there.

8. I have gone through the investigation papers. There are letters and statement of account purportedly issued by informant Company showing that the applicant had paid the liability in full and the account shows 'Nil' as against outstanding. These letter and statement of accounts, according to the prosecution, are forged one and the investigation is going on.

9. In the above scenario, *prima facie*, I find the complicity of the applicant in the alleged offence. I do not find merit in the submission of the learned Counsel for the applicant that the loan amount was duly paid by the applicant. There is *prima facie*

involvement of the applicant in the alleged offences. The delay aspect at this stage will not further the case of the applicant and the same can be looked into at the time of trial.

10. In view of above, I am not inclined to entertain the present application. Hence, I pass the following order.

ORDER

The application is rejected.

[V. G. BISHT]
JUDGE