

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.483 OF 2021

Gulab s/o Nandu Jadhav

... **APPLICANT**

VERSUS

The State of Maharashtra

... **RESPONDENT**

.....
Shri S.S. Thombre, Advocate for applicant

Shri Y.G. Gujarathi, A.P.P. for respondent State

.....

CORAM : R. G. AVACHAT, J.
(VACATION COURT)

DATE : 28th MAY, 2021

ORDER :

This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicant apprehends arrest in connection with Crime No.0001/2021, registered at Taluka Jalna Police Station, District Jalna for the offence punishable under Sections 420, 468, 471, 472, 474 read with Section 34 of the Indian Penal Code.

2. Heard learned counsel for the applicant. Perused the First Information Report (F.I.R.) and the related papers. The F.I.R. has been lodged by an official of Deogiri Nagari

Sahakari Patsanstha, Jalna on 1/1/2021. It is alleged in the F.I.R. that, the applicant had obtained loan of Rs.5,00,000/- way back in March 2009. The applicant had mortgaged his land as a security for the loan. The entry of the mortgage had been made in the 7/12 extract of the land (Gut No.154). The applicant has not repaid the entire loan amount. The proceedings were commenced for obtaining recovery certificate under Section 101 of the Maharashtra Co-operative Societies Act. In the year 2020, the Patsanstha obtained the 7/12 extract of the land mortgaged by the applicant to find that the entry of the mortgage was deleted therefrom. On further enquiry, it was found that the applicant had forged a certificate indicating to have been issued by the Patsanstha, certifying him to have not been in arrears of the loan amount. On the basis of the forged certificate, the Talathi (co-accused) deleted the entry of the mortgage from the 7/12 extract. The applicant, with a view to defraud the creditor Patsanstha, executed a gift deed in favour of his son. As such, the applicant is alleged to have had forged a No Dues Certificate and used the same by joining hands with the Talathi to defraud the Patsanstha.

3. The learned A.P.P. would submit that the applicant

had earlier withdrawn the application for anticipatory bail filed in this Court since the Court was not inclined to grant him the relief. As such, his earlier application is deemed to have been rejected by this Court. There is strong material to indicate the applicant to have committed the offence. His custodial interrogation is required to find as to how he forged the certificate and prepared the stamp and seal of the Patsanstha.

4. Learned counsel for the applicant would submit that, the applicant has deposited a sum of Rs.8,50,000/- in his loan account. As such, there is change in the circumstances, entitling him to move the second application. The documents allegedly forged have been in custody of the investigating officer. The custody of the applicant is, therefore, not required. The revenue authorities have sanctioned the mutation entry. Learned counsel for the applicant urged for a lenient view.

5. Admittedly, the applicant had borrowed a sum of Rs.5,00,000/-. By the time he filed the first application (Anticipatory Bail Application No.58/2021), a sum of Rs.16,00,000/- was due from him. Post rejection of his earlier application, he has paid Rs.8,50,000/-. He offered to

clear all the dues within a couple of months and urged for a lenient view. Admittedly, the forged documents have been in custody of the investigating officer. Today itself the applicant has produced a copy of the receipt showing to have deposited a sum of Rs.4,00,000/- in his Loan Account. The applicant assured to repay the balance amount within a period of six weeks.

6. In view of the above, I am inclined to grant the application in terms of the following order :

ORDER

(i) The application is allowed. In the event of arrest of the applicant in connection with Crime No.0001/2021, registered at Taluka Jalna Police Station, District Jalna for the offence punishable under Sections 420, 468, 471, 472, 474 read with Section 34 of the Indian Penal Code, the applicant shall be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(ii) The applicant shall appear before the investigating officer as and when required. The applicant shall not tamper

with the prosecution evidence.

(iii) The applicant shall deposit the remaining amount of Rs.4,50,000/- or whatever is due on the Loan Account within a period of six weeks from today and produce the payment receipt thereof before the investigating officer. In case of the applicant's failure to repay the amount or clear the Loan Account, the order granting anticipatory bail shall stand automatically vacated without further reference to the Court.

**(R. G. AVACHAT)
JUDGE**

fmp/-