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

ANTICIPATORY BAIL APPLICATION NO. 1021 OF 2021

1. Gajanan S/o Madhavrao Nangare,
Age : 36, Occu. Advocate,
R/o. Yehalegaon Tukaram,
Tq. Kalamnuri, Dist. Hingoli.

2. Yeshwant S/o Madanrao Muthal Patil,
Age : 34, Occu. Advocate,
R/o. Sai Nagar Kalamnuri,
Tq. Kalamnuri, Dist. Hingoli. ...**Applicants**

Versus

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

AND

ANTICIPATORY BAIL APPLICATION NO. 1020 OF 2021

Pradip S/o Manchakrao Londhe,
Age : 36, Occu. Advocate,
R/o. Lakh, Tq. Aundha, Dist. Hingoli. ...**Applicant**

Versus

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

.....

In both matters : -
Mr. Dhananjay M. Shinde, Advocate for the applicants
Mr. S. B. Narwade, APP for respondent / State

.....

CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 22nd September, 2021
DATE OF PRONOUNCING THE ORDER : 24nd September, 221

PER COURT : -

1. By these applications filed under Section 438 of the Code of Criminal Procedure, 1973, the applicants seek grant of pre-arrest bail in connection with Crime No. 0256 of 2021, registered with Vasmat Police Station, District Hingoli, for the offences punishable under Sections 420, 468, 471, 409, 474 r/w 34 of the Indian Penal Code, 1860.

2. The prosecution case is that the informant is a Law Officer of Mahindra Rural Housing Finance Limited (hereinafter referred to as "said Finance Company"). The applicants are working as Law Officers of the said Finance Company. Accused nos. 7 to 22 are the borrowers, who have secured loan from the said Finance Company. The duty of the Law Officer is to verify the documents of ownership, take search of the property, find out whether any encumbrances are over the property in question and accordingly give report to that extent. It is further alleged that the applicants in collusion with the borrowers i.e. accused nos. 7 to 22 got the loan sanctioned for borrowers by preparing forged Namuna No. 8, 7/12 extracts and thereby committed fraud in the sum of Rs. 22,20,000/-. FIR came to be registered accordingly.

3. Mr. Dhananjay M. Shinde, learned Counsel for the applicants, submits that the present applicants are the Law Officers of the said Company and as per their job profile, they are supposed to take search report based on the documents submitted by the Bank officers. They are also required to take search in the office of Sub-Registrar so as to find out whether the property is free from all encumbrances or not. Thus, their role is very limited i.e. to verify the documents submitted by the office and accordingly tender opinion about ownership, title and any encumbrances, if any, over the property. The learned Counsel next submitted that, it were the borrowers, who, on the basis of alleged forged documents, secured loans and were beneficiaries. It is not the case that the present applicants are also beneficiaries. Moreover, the whole case is based on documentary evidence and in such circumstances, there is no necessity of custodial interrogation. The applicants undertake that they will be available as and when called by the Investigating Officer.

4. Mr. S. B. Narwade, learned APP, on the other hand, would oppose the submissions by contending that the applicants have not performed their duty of verification of necessary documents deliberately in order to help the borrowers with an ulterior motive.

Since the huge amount is involved and the investigation is in progress, the applications should not be allowed. The learned APP also invited my attention to the statement of prosecution witnesses from the investigation papers and would submit that for all these reasons, the present applicants do not deserve the benefit of pre-arrest bail.

5. If the FIR is read carefully, I find that it is full of vague and general allegations. It is alleged that all the accused in collusion with each other, forged 7/12 extract and Grampanchayat Namuna No. 8 and thus helped the borrowers to secure the loan. It is nowhere made clear as to how, in what manner and with whose assistance they, particularly the present applicants who are Law Officers, helped the borrowers.

6. I have gone through the investigation papers and have an occasion to go through the statements of Machchindra Sadabuwa Giri, S. S. Waghile, Mayur Sureshrao Waghmare, Dhondba Shripatrao Khokle, Nandkishor Piraji Shatalwar, Milind Chandikadasrao Selukar and Gajanan Ramrao Bodhankar. These statements nowhere directly or indirectly implicate the present applicants in any manner. The duties of these applicants were only to verify the documents

submitted by the Finance Company, find out whether the title is clear or not and there is/are any encumbrances over the property against whom the borrower was expected to raise loans. I do not find any tangible evidence associating or linking the present applicants with those borrowers while committing the offences under Sections 420, 468, 471, 409, 474 r/w 34 of the Indian Penal Code.

7. In **Central Bureau of Investigation, Hyderabad Vs. K. Narayana Rao** reported in **2012 AIR (SCW) 5139**, the Hon'ble Apex Court held that in the absence of direct material, he (lawyer) for giving his legal opinion on documents furnished by the Bank cannot be implicated on charge of furnishing false opinion as one of the conspirators of the offence punishable under Section 420 read with Section 109 of IPC as LW-5 (Law officer of the Bank) in his statement, has not even made a single comment as to the veracity of the legal opinion rendered by the respondent herein. The Hon'ble Apex Court further observed that even out of 78 witnesses, no one had made any relevant comment or statement about the alleged involvement of the respondent herein in the matter in question, so much so his name was not mentioned in the FIR but only in the charge-sheet. No prima facie case for proceeding in respect of the charges alleged insofar as respondent herein is concerned is made out. The Hon'ble Apex Court

therefore upheld the conclusion of the High Court in quashing the proceedings and rejected the stand taken by the CBI.

8. In the instant case also, as already noted, there is no *prima facie* link or evidence to connect these applicants with the borrowers named in the FIR for causing loss to the Finance Company in which the applicants were employed as Law Officers. Needless to say, such tangible materials are lacking in the present case.

9. In view of above, I am satisfied that the applicants have made out a *prima facie* case for pre-arrest bail. I am, therefore, inclined to allow the applications. Hence, the following order.

ORDER

i. In the event of arrest of the applicants, namely, Gajanan Madhavrao Nangare, Yeshwant Madanrao Muthal Patil and Pradip Manchakrao Londhe in connection with Crime No. 0256 of 2021, registered with Vasmat Police Station, District Hingoli, for the offences punishable under Sections 420, 468, 471, 409, 474 r/w 34 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty thousand] each, with one or two solvent sureties in the like amount.

ii. The applicants shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

iii. The applicants shall not tamper with the prosecution evidence in any manner.

10. The applications stand disposed of in aforesaid terms.

[V. G. BISHT]
JUDGE