IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1395 OF 2021

Ganesh Iswarappa Gaware ...Applicant

Versus

The State of Maharashtra ...Respondent

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Advocate for the Applicant : Mr. S. P. Urgunde
APP for the Respondent – State : Mr. A. V. Deshmukh

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th DECEMBER, 2021

PER COURT :-

1. The applicant is apprehending arrest in Crime No. 403/2021 registered with Shivaji Nagar Police Station, District Latur for the offences punishable under Sections 420, 468, 468, 471 of the Indian Penal Code.

2. The complainant has alleged that the applicant is involved in construction. The complainant has purchased row-house from the applicant. It was represented to him that there are no encumbrances on the said property. The applicant had obtained loan on the said property by mortgaging the same. This fact was suppressed by the applicant / accused. The bank

had initiated proceedings for recovery of loan obtained by the applicant. The bank had also lodged First Information Report (for short "F.I.R.") in which the applicant was granted pre-arrest bail.

3. The F.I.R. discloses that on the basis of the representation of the applicant, the complainant had purchased the property. Subsequently the bank had pasted notice of recovery on the premises and the complainant learnt about loan obtained by the applicant. When the complainant approached the applicant, he informed him that he would repay the loan and hence the complainant did not initiate any proceeding against the applicant. However, since the loan installments were not cleared by the applicant, the F.I.R. has been registered.

4. Learned Counsel for the applicant submitted that the proceedings were initiated by the bank for not repaying the loan under the provisions of The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act. The applicant had preferred Writ Petition before this Court and vide order dated 11th October 2021, the applicant was permitted to deposit Rs. 60,00,000/- within two weeks and it was directed that further steps shall not be taken against him in the recovery proceedings. Learned Counsel for

the applicant has tendered receipt relating to deposit of Rs. 60,00,000/- with Bhagyalaxmi Mahila Sahakari Bank Ltd., Nanded.

5. From the tenor of the F.I.R. it is apparent that the primary grievance of the complainant is that, although the applicant had promised him that the loan amount would be repaid, he did not fulfill the promise. It is also alleged that the fact of mortgaging the property with the bank was not disclosed to the complainant. Having regard to the factual aspect as stated above and primarily considering the fact that the amount of Rs. 60,00,000/- has been deposited by the applicant pursuant to the order passed by this Court, interim protection was granted to the applicant by order dated 02.12.2021.

6. Learned APP submitted that on the representation of the applicant the complainant had purchased the property and thereafter the bank had issued the notice of recovery on the premises.

7. The applicant had deposited an amount of Rs. 60,00,000/- and interim relief has been granted to him by the Division Bench of this Court.

8. Considering the nature of the facts of the case, custodial interrogation of the applicant is not necessary.

ORDER

(i) Anticipatory Bail Application No. 1395 of 2021 is allowed.

(ii) Interim order dated 02.12.2021 is confirmed.

(iii) In the event of arrest of the applicant in Crime No. 403/2021, registered with Shivaji Nagar Police Station, District Latur, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one or more sureties in the like amount.

(iii) The applicant shall appear before the Investigating Officer on 22nd 23rd and 24th December, 2021 between 11.00 a.m. to 01.00 p.m.and thereafter as and when called for.

(iv) Application stands disposed of.

(PRAKASH D. NAIK)
JUDGE

shp/-