IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 577 OF 2019

Anil Sakalnaryan Dubey … Applicant
V/s.
The State of Maharashtra … Respondent

Mr.Amit Dubey i/b. Mr. A. M. Saraogi for Applicant.
Smt. Rutuja Ambekar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 7th July 2021.

(Through Video Conferencing)

P.C. :

1. This is an application under Section 438 of the Criminal Procedure Code for pre-arrest bail in C.R. No. 39 of 2017, dated 22nd February 2017, under Section 420 read with 34 of the Indian Penal Code registered with Thane Nagar Police Station, Thane City.

2. Heard Mr.Amit Dubey, learned Advocate for the Applicant and Smt.Ambekar, learned A.P.P. for the Respondent-State. Perused record and Affidavit dated 7th June 2019 filed by Shri Ajit Gondhali, Assistant Inspector of Police, Thane Nagar Police Station, Thane City.

3. By an Order dated 24th April 2019 the Applicant has been granted interim relief by this Court.

4. The First Information Report is lodged by Rajendrasing K. Rawat, Assistant General Manager, Bank of India, Thane Main Branch (W). It is the prosecution case that, co-accused Manoj Dipnarayan Sing and Vimla Manoj Sing obtained loan from the said bank of Rs.30,80,000/- in the month of August 2014 for purchasing Room No.403, H Wing, Shalibhadra Regency Co. Op. Hsg. Society, Nallasopara (East). That upto August 2016, they intermittently made repayment of EMI. That, in the month of June 2016, the account of said co-accused was declared as NPA. That, thereafter also the said co-accused deposited a sum of Rs.1 Lakh in the bank. The bank management, therefore, sent its persons to the said flat No. 403, when they found it to be locked.

The panel Advocate of the bank thereafter took search of all documents, wherein it was found that, the said two borrowers, namely, Manoj Dipnarayan Sing and Vimla Manoj Sing had purchased the said suit flat from Anil Sakalnaryan Dubey (Applicant herein) on 13th May 2014. The Applicant had purchased the said flat from Mr. Vilas Sawant. It also revealed that, on 12th August 2014, co-accused Manoj Dipnarayan Sing and Vimla Manoj Sing had executed a 'Deed of Cancellation'. It is the date on which loan was sanctioned in favour of the co-accused. The said property therefore was again vested with the Applicant and the Applicant thereafter sold the said flat to Sushil Dubey on 6th May 2015. Mr. Sushil Dubey in turn sold the said flat to

Smt. Reshma Jay Katchi and Shri Jay Bharatkumar Katchi. All the documents in question are registered documents. The bank could not recover its loan from co-accused Manoj Dipnarayan Sing and Vimla Manoj Sing, as the said co-accused were not found at the given address. In this brief premise, present crime is registered under Section 420 read with 34 of IPC. for cheating of Bank of India to the tune of Rs.30,80,000/-.

5. The Affidavit-in-reply dated 7th June 2019 filed by the Investigating Officer mentions that, co-accused Ashok Parmar impersonated himself as Manoj Dipnarayan Sing and co-accused Ravindra V. Argade impersonated himself as Anil Dubey (Applicant). The transaction entered into by and between the Applicant on one hand and Manoj Dipnarayan Sing on the other hand is bay way of registered sale deed of August 2014. All the documents in question are registered documents. It prima facie appears that, the co-accused Sushil Dubey and Ashok Lalji Parmar @ Manoj Dipnarayan Sing, are mastermind behind the crime and have defalcated the said sum of Rs.30,80,000/- of Bank of India.

It further prima facie appears that, the Applicant has received the said amount by virtue of sale of his suit property and has no direct role to play in the present crime. Even otherwise, the investigation of the present crime is solely based on documents.

6. Learned A.P.P., on instructions, submitted that, as of today investigation of the present crime is completed and the Police have already submitted charge-sheet before the Court of competent jurisdiction on 27th February 2019 itself.

7. In view of the above, Applicant can be protected by pre-arrest bail.

Interim relief granted by Order dated 24th April 2019 is confirmed. However, the condition to attend Investigating Officer is waived with immediate effect.

8. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]