

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 727 OF 2019**

Shobha Shivaji Thakare

... Applicant

V/s.

The State of Maharashtra and Anr.

... Respondents

Mr. Sudip Mallick a/w Mr. Harshad E. Palwe for Applicant.

Smt. Rutuja Ambekar, A.P.P. for Respondent-State.

Dr. Saikumar Pathrudu for Respondent No.2.

CORAM : A.S. GADKARI, J.**DATE : 27th July 2021.****(Through Video Conferencing)****P.C. :**

1. Heard Mr. Palwe, learned counsel for the Applicant, Smt. Ambekar, learned A.P.P. for the State and Dr. Saikumar Pathrudu for the Respondent No.2. Perused the record.

2. By an Order dated 26th March 2019 the Applicant was granted interim relief and was directed to attend the Investigating Officer on stipulated dates to cooperate in the process of investigation.

3. The record further indicates that, on 26th March 2019 and 31st January 2020, the Applicant had made a statement before this Court that, she will settle the matter with Respondent No.2 either by mortgaging another plot

or to give alternate land as a security towards mortgage for the loan transaction, which is subject matter of the present complaint.

4. On 23rd July 2021, Mr. Palwe, learned counsel for the Applicant had made a statement before this Court that, the principal accused i.e. Niranjana Thakare (son of Applicant) expired at Georgia (United States of America) on 13th October 2019 due to Brain Cancer.

Today, Smt. Ambekar, learned A.P.P. has produced on record a report dated 26th July 2021, signed by Assistant Police Inspector, Mumbai Naka Police Station, Nashik City wherein the said fact is reiterated. It is thus clear that, the present case against the principal accused i.e. Niranjana Thakare stands abated due to his death.

5. The record indicates that, the Applicant has signed loan agreement dated 30th September 2015 as a guarantor to her son i.e. Niranjana Thakare in whose favour the Respondent No.2 had advanced a loan of Rs.90 lakhs. A Mortgage Deed dated 28th September 2015 pertaining to Plot No.22 while availing loan was signed by Accused No.1 Niranjana Thakare. Applicant is a lady and aged about 71 years as of today.

As noted earlier, the principal accused has expired. It appears from the record that, the Applicant being mother of the principal accused Niranjana Thakare had stood guarantor for him while availing loan facility by him from Respondent No.2. It further appears that, the Applicant has no

direct role to play in the present crime.

6. In view of the above, according to this Court, custodial interrogation of the Applicant for further investigation of the present crime is not necessary.

Interim relief granted by Order dated 26th March 2019 is hereby confirmed. However, the condition to attend the Investigating Officer is waived.

7. At this stage, Mr. Pathrudu, learned counsel for the Respondent No.2 expressed his concern about recovery of loan amount advanced by Respondent No.2 to Niranjana Thakare by loan agreement dated 30th September 2015. It is needless to mention that, the Respondent No.2 is having civil remedy at its disposal for recovery of the loan amount as may be permissible under the law and this Court has not considered the said aspect in the present Application.

8. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]