IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.919 OF 2021

Gajendra Prakash S/o Vijay Raj Prakash and Anr. ..Applicants
Versus
The State of Maharashtra and Anr. ..Respondents

Mr. Aabad H. Ponda, Senior Advocate i/b y Karan L Jain, for the Applicants.
Mrs. Rutuja Ambekar, APP for the Respondent – State.
Mr. Sanjiv Sawant a/w Pankaj Kode i/by Abhishek Deshmukh, for Respondent No.2 – Original Complainant.

CORAM : NITIN W. SAMBRE, J.

DATE : 13th DECEMBER, 2021

P.C.

1. Applicants are seeking pre-arrest bail in Crime No. 294 of 2018 (C.R. No.101/2018) registered with Dadar, Police Station for the offence punishable under Sections 409, 420, 465, 467, 468, 471, 120B of IPC.

2. M/s. Fortune Integrated Assets Finance Ltd. of which complainant Mr. Amol Suresh Ingle is an employee, in the complaint alleges that the said company has various revenue sharing partners and the company like M/s. Maina Finance Company and M/s. Maina Associates Company of which applicants are the directors. The nature of business transaction between the parties is, the vehicle finances for old and new one by the complainant through aforesaid two firms and the responsibility to recover and give

accounts will be that of the applicants firm.

3. The loan applications which were honoured thereby disbursing amount to the tune of Rs.16,00,00,000/- pursuant to the recommendations of the applicants have resulted into bogus and fictitious transactions thereby causing substantial monetary loss to the complainant firm to the tune of Rs.16,00,00,000/-. As such, offence in question.

4. Senior counsel Mr. Aabad Ponda would urge that the business transaction and relation between the complainant and applicants speaks of contractual obligations. The differences between the parties are taken before the arbitrator by the complainant firm in which the applicants have lodged counter claim as their lawful dues were not paid. According to him, once the matter is subjudice before the arbitrator, the invocation of criminal remedy is nothing but an arm twisting mode adopted by the complainant. By inviting attention of this Court to repayments made, Mr. Aabad Ponda would urge that hardly any amount is payable to the complainant as total amount paid is Rs.34,72,14,778/- in financial year 2019-20. Mr. Aabad Ponda would further claim that all the details pertaining to business transacted by the firms of the applicants were intentionally suppressed by the complainant so as to refute the claim of commission.

5. As such, according to him both the applicants are

entitled for bail as the parties shall be governed by the arbitration agreement.

6. While countering the aforesaid submissions, learned APP assisted by the counsel for the complainant would urge that the applicants have cheated the complainant in the matter of disbursement of finances and thereby caused loss to the tune of more than Rs.16,00,00,000/-. It is claimed that custodial interrogation is required so as to find out who else is involved and recovery of the amount.

7. Considered submissions.

8. The bone of contentions between the complainant and the applicants are with regard to finances provided in 847 loan cases. It is alleged that the applicants have furnished intentionally false information about the loan transactions and the amount of loan has been used for the personal benefit of the applicants.

9. From the available material on record, it appears that out of 847 loan cases 227 borrowers could not be served with the notices as said persons were not traceable. 125 borrowers have repaid the loan amount to the present applicants out of which only part amount of Rs.2,14,500/- was deposited with the complainant and rest of the amount repaid by the borrowers is misappropriated. As such, 227 borrowers to whom the notices could not be served are not identified till this date by the applicants who was responsible for

disbursement after verification and recovery.

10. While conducting business like the one of finances to the vehicles alleged in the present case, a latitude can be given to few of the borrowers who are not traceable, however, what can be noticed is almost more than 25% of the borrowers are not traceable and such borrowers who were traced and deposited amount with the applicants, the applicants have failed to redeposit the same to the complainant from whom the finances were released.

11. As such, the claim put forth by Mr. Aabad Ponda that already arbitration proceedings are pending, will be of hardly any consequences particularly when the borrowers who have borrowed amount and claimed to have purchased the vehicles are not in existence and the loan was sanctioned and released based on forged documents. The present remedy is in addition to other several remedies available to the parties. There is enough material available on record which *prima-facie* implicate the applicants in a serious economic offence.

12. As such, no case for bail is made out.

13. Application stands rejected.

14. As ad-interim protection is in operation more than one year, same is continued for a period of four weeks from today.

[NITIN W. SAMBRE, J.]