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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1749 OF 2021

RAKESH PRAVIN SANGHVI AND ANR APPLICANTS

V/s.

THE STATE OF MAHARASHTRA RESPONDENT

Mr. Subodh Desai a/w Mr. Kartik Garg i/b Mr. Gaurav Parkar a/w
Mr. Rohan Sonawane advocate for the applicant.
Mrs. Rutuja Ambekar APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: 5th OCTOBER, 2021.

P.C.:

1] Heard respective counsel. On 03/07/2020, by an order passed
in LD/VC/Criminal Anticipatory Bail Application No. 292 of 2020,
this Court has continued ad-interim protection which order is still in
operation.

2] Offence being C.R. No. I-75/2015 came to be registered with
Vashi Poilce Station for offence punishable under Sections 420, 389,

394, 120B of Indian Penal Code and Section 138 of Negotiable Instruments Act, based on monetary transactions and memorandum of understanding, reached at in between the applicant and complainant on 27/06/2010, 16/09/2010 and 15/02/2011.

3] Case of the prosecution in view of order passed under Section 156(3) of Code of Criminal Procedure, 1973 by the learned Magistrate is, applicant has taken loan of Rs. 6,01,00,000/- and towards repayment of the same, cheques for an amount of Rs. 13,83,38,910/- were dishonoured.

4] The fact remains that applicant was served with a notice for an offence punishable under Section 138 and 141 of the Negotiable Instruments Act, however, complainant has not persuaded the same and has rather filed a summary suit for recovery of the amount. I am informed that in the said suit, applicant-defendant is granted unconditional leave to defend under Order 37 Rule 3 (5) of the Code of Civil Procedure, 1908.

5] As the issue about recovery of the loan amount which is formed to be basis for registration of the crime in question is already subjudiced before a competent Civil Court, Small Cause Court has already granted unconditional leave to defend vide order dated 20/04/2015, in my opinion, custodial interrogation of the applicant is not warranted or justified.

6] It is required to be noted that once the civil proceedings at the behest of the complainant for recovery of the very same amount which is subject matter of the crime is pending before the competent civil Court, in my opinion, applicant deserves protection. Application is allowed with following conditions:

(i) In the event of arrest of the applicant in C.R. No. I-75/2015 came to be registered with Vashi Poilce Station for offence punishable under Sections 420, 389, 394, 120B of Indian Penal Code and Section 138 of Negotiable Instruments Act, he be released on bail on furnishing P.R. bond in the sum of Rs. 1,00,000/- with one or more sureties in the like amount.

(ii) Applicant shall neither influence prosecution witnesses in any manner nor tamper with evidence.

(iii) Applicant shall attend Investigating Officer as and when directed.

7] Application stands disposed of.

[NITIN W. SAMBRE, J.]