

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.396 OF 2018

|                            |            |
|----------------------------|------------|
| The State of Maharashtra   | Applicant  |
| versus                     |            |
| Santosh Shyamsunder Mishra | Respondent |

AND

CRIMINAL APPLICATION NO.397 OF 2018

|                          |            |
|--------------------------|------------|
| The State of Maharashtra | Applicant  |
| versus                   |            |
| Yogesh Dhirajlal Vora    | Respondent |

AND

CRIMINAL APPLICATION NO.399 OF 2018

|                          |            |
|--------------------------|------------|
| The State of Maharashtra | Applicant  |
| versus                   |            |
| Smt.Varsha Dilip Badlani | Respondent |

Mr.S.R.Agarkar, APP, for applicant-State in all applications.

None for respondent in Appln.396/2018.

Mr.Vedchetan Patil for respondent no.1 in Appln. Nos.397 and 399 of 2018.

Mr.Wani, Police Inspector, Mulund Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 15<sup>th</sup> September 2021

PC :

1. All these applications are preferred by State for cancellation of anticipatory bail granted to the respondents-accused.
2. The respondents had preferred applications for anticipatory bail before the Court of Sessions, at Mumbai apprehending arrest in

CR No.427 of 2015 registered with Mulund Police Station for offences under Sections 420, 465, 467, 468, 470, 471, 34 of Indian Penal code. Learned Sessions Judge vide orders dated 22<sup>nd</sup> March 2017, 18<sup>th</sup> October 2016 and 18<sup>th</sup> October 2016 respectively allowed said applications.

3. The FIR was registered on 16<sup>th</sup> September 2015. The respondents herein were bank employees. They were employed with Kapol Co-operative Bank Ltd. Learned APP submitted that main accused were arrested and they were granted bail. On completing investigation charge sheet has been filed against them. On account of pendency of this application, the charge sheet is not filed against respondents-accused.

4. Learned counsel for respondents in Application Nos.397/2018 and 399/2018 submits that the respondent in Application No.399/2018 had resigned from bank in 2012. The FIR was registered in 2015. It is submitted that learned Sessions Judge has granted anticipatory bail by assigning reasons. He relied upon two decisions of Apex Court in the case of **CBI, Hyderabad Vs. Subramaji Gopal Lakrishnan and another** (2011)5-SCC-296 and **Dataram Singh Vs. State of Uttar Pradesh and another** (2018)3-SCC-22.

5. I have perused the impugned orders granting anticipatory bail. In the order dated 22<sup>nd</sup> March 2017 passed by learned Sessions Judge granting anticipatory bail to Santosh Shyamsundar Mishra who is respondent in Application No.396 of 2018, it has been observed that it is not disputed that on forged and fabricated documents the main culprit had cheated the bank for huge amount.

The bank officials were concerned with loan transaction. The case is based on documents which are in custody of investigating agency. The main culprit Tejas Lodaya were on bail and charge sheet is filed against them. The applicant-accused therein had joined the investigation and since last two years he has been interrogated. Hence, custodial interrogation is not necessary. He was a junior officer and cannot be an authority of approval and disbursement of loan. Thus, the learned Judge had analyzed the facts of case and had opined that custodial interrogation of the said accused was not necessary.

6. While passing order dated 18<sup>th</sup> October 2018 granting anticipatory bail to respondent Yogesh Vora which is subject matter of Criminal Application No.397 of 2018, the learned Judge has observed that said accused was called for enquiry by the investigating officer and he has appeared and co-operated with investigation. His statement was recorded. He provided required information. The allegation attributed to him was negligence while sanctioning loan of huge amount. The investigating officer did not attribute him negligence in this case. The entire case is based on documents. All the documents are in possession of investigating officer. Thus, the learned Judge assigned cogent reasons for allowing said application.

7. While granting anticipatory bail to Smt.Varsha Badlani vide order dated 18<sup>th</sup> October 2018 which is subject matter of Criminal Application No.399 of 2018, it was observed that none of the witnesses has stated involvement of said accused. Her name is not appearing in the FIR and charge sheet. She was called for enquiry

and whenever she was called, she had appeared before the investigating officer. The statement is recorded. The allegations attributed to the said accused was about negligence. The documents are in custody of investigating officer.

8. In the light of factual aspects of this case and the reasons assigned while granting anticipatory bail, there is no reason to interfere in the impugned orders. Hence, Criminal Application Nos.396 of 2018, 397 of 2018 and 397 of 2018 are rejected. Mr.Vedchetan Patil undertakes to file vakalatnama in Criminal Application Nos.397 of 2018 and 399 of 2018 within three days from today.

(PRAKASH D. NAIK, J.)

MST