IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2107 OF 2019

Sachin Ramchandra Gadade & Anr. .... Applicants

versus

State of Maharashtra .... Respondent

…....

- Mr.Sumant Deshpande, Advocate for Applicant.
- Mr.H.J. Dedhia, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.656/2019 registered with Sadar Bazar Police Station, under sections 406, 420 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by one Anup Anil Tandale on 20/08/2019. According to him, the Applicant No.1 was his friend since about 10-12 years prior to lodging of the FIR. The Applicant No.2 is Applicant No.1’s wife. Both the families were

thus known to each other quite well. It is mentioned in the FIR that on 28/04/2019 the Applicant approached him and told him that they wanted to attend a wedding ceremony. But the Applicant No.2's ornaments were mortgaged with the bank and therefore she needed some ornaments for wearing on that date for the wedding ceremony. The Applicants requested the informant and his wife that the informant's wife's ornaments be given to them for 10 days. They assured that the ornament would be returned after 10 days. On their request, the informant's wife's ornaments were given to them. However, those ornaments were not returned. The informant got a call from HDFC bank in July 2019. He was told that the Applicant No.1 had mortgaged 9 tolas of gold with the bank and that he was not paying installments of the loan advanced against that gold. The Applicant No.1 had given reference of the first informant. The informant was convinced that their ornaments were used by the Applicants to borrow loan from HDFC bank and thus had misused the ornaments and had misappropriated their properties. On this basis FIR is lodged.

3. Heard Mr.Sumant Deshpande, learned counsel for the Applicant and Mr.H.J. Dedhia, learned APP for the State.

4. Learned counsel for the Applicant submitted that the conduct of the parties show that there was no intention on the part of the Applicants to misappropriate the informant's property. The very fact that the Applicant had given reference of the informant shows that he did not want to hide anything from the informant. He submitted that there are bank statements showing that on 30/04/2019 itself the Applicant No.1 had transferred around Rs.1,30,000/- in the account of informant.

5. He therefore submitted that no offence is committed by the Applicant. He also submitted that the FIR against the Applicant is lodged as a counter blast to avoid payment of more than 1.5 lakhs, which the Applicant No.1 had advanced to first informant.

6. Learned APP submitted that based on statements of the

Applicants themselves, it is quite clear that there were multiple transactions between the Applicant and the informant. Therefore returning Rs.1,30,000/- on 30/04/2019 may not necessarily be in connection with pledging of the ornaments. He submitted that the Applicant had antecedents and therefore anticipatory bail should not be granted.

7. Learned APP however produced the bank statement of HDFC Bank showing that against pledging of ornaments, the accused No.1 was given Rs.1,52,000/-.

8. I have considered these submissions. It is significant hat the bank statement of HDFC Bank shows that the loan was disbursed on 29/04/2019 of Rs.1,52,000/- and the first installment was started from May 2019. Immediately on the next date as pointed out by the learned counsel for the Applicant on the basis of bank statement of the Applicant, which is annexed to this application, at page 89, Rs.1,30,000/- were transferred in the name of the first informant. Similarly, on

07/05/2019 Rs.5,000/- were transferred in the name of the informant’s wife and Rs.9,000/- were transferred on 29/05/2019. This is reflected in the bank statement at page Nos.58 and 60 of this application.

9. Hence there is some substance in the submissions of the learned counsel for the Applicant that the amount which was received by the Applicants was immediately given to the first informant. The reference of the informant was also given to the bank. Therefore it appears that there was no intention to cheat or defraud the first informant. In any case, the allegations made against the present Applicants in this backdrop appear to be doubtful. Therefore they can be protected by way of anticipatory bail. They will have to of course cooperate with the investigation.

10. Hence, the following order :

O R D E R

(i) In the event of their arrest in connection with C.R.No.656/2019 registered with Sadar Bazar

Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

(ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)