IN THE HIGH COURT OF JUDICATURE AT BOMBAY, NAGPUR BENCH, AT NAGPUR.

Criminal Application (ABA) No. 126 of 2021

(Rajesh s/o Shyamsundar Chandak **..vs..** State of Maharashtra through P.S.O., P.S. Yavatmal City, Tah. and Dist. Yavatmal)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. N. R. Tekade, Advocate for the applicant
Mr. S. S. Doifode, APP for the State

CORAM : ROHIT B. DEO, J.
DATED : 05/03/2021

Heard.

2. The applicant is apprehending arrest in Crime 369/2020 registered with Police Station, Yavatmal City, District, Yavatmal for the offences punishable under Sections 420, 468 and 471 read with Section 34 of the Indian Penal Code.

3. The crime is registered on the basis of report dated 19-11-2020 lodged by the authorized officer of the Yavatmal Branch of the State Bank of Hyderabad.

4. The gist of the report is that the applicant availed finance from the State Bank of Hyderabad to the tune of

Rs. 10,00,000/- on the basis of forged and fabricated documents.

5. It is alleged that the applicant approached Yavatmal Branch of State Bank of Hyderabad seeking secured cash credit loan. In purported compliance with the requirement of the bank, the applicant submitted application dated 1-10-2014 along with a search report issued by Advocate Shweta Mane in respect of shop block of which the applicant claimed to be the owner. The applicant claimed that the said shop block was inherited from his deceased father. On the basis of such representation, the applicant mortgaged the shop block and availed finance of Rs. 9,00,000/- on 18-10-2014 and further amount of Rs. 1,00,000/- on 30-12-2015.

6. The applicant did not pay the loan installments and was evasive when the bank officers asked him to clear the arrears. The bank officers became suspicious and started enquiring into the search report and the mortgage created and were shocked to note that the applicant had transferred the said shop block in favour of

his wife, who is also co-accused on 17-6-2014 by registered sale deed. It is further alleged that in the proceedings commenced under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, co-accused Mrs. Namrata prevented the authorized officer from taking possession. Enquiries further reveal that shop block was owned by the father of the applicant and apart from the applicant, his brother was also a legal heir. It has transpired that after the death of the applicant's father, the applicant fabricated documents and manipulated a mutation entry and on the basis thereof, availed finances with the intention of cheating the bank and further the applicant did not have the intention of making repayment of loan amount.

7. While I have protected the co-accused Mrs. Namrata who is the wife of the applicant, insofar as the applicant is concerned, there is no case made out for discretion. The material in the case diary is cogent and overwhelming. There is more than ample material on record to *prima facie* suggest that the applicant has

indulged in forgery and fabrication at various stages. The material reveals that after the death of the father, the applicant manipulated mutation entries in his exclusive name although his brother too was a shareholder. Fabricated documents are allegedly basis of the mutation.

8. Insofar as the finance of Rs. 10,00,000/- is concerned, *prima facie,* the applicant always intended to cheat the bank. He did not from the very inception intend to repay the loan amount. The applicant transferred the shop block in favour of his wife, Namrata by registered sale deed on 17-6-2014. The finance is availed from State Bank of Hyderabad after the said sale deed. As a fact, the applicant submitted a dubious and suspicious search report on 1-10-2014 and purported to create a mortgage of the property in favour of the State Bank of Hyderabad, although he had transferred the property in the name of his wife four months earlier.

9. The allegation is grave. The conduct of the applicant suggests that he has indulged in serious crimes

at various stages. It would be necessary to interrogate the applicant custodially, particularly to unearth the various facets of the crime, *inter alia*, the suspicious search report. Proceeds of the crime are to be traced. The forged and fabricated documents are to be recovered and in-depth interrogation is absolutely necessary to ascertain and throw light on the *modus operandi* and on the identity of the persons whose help may have been taken to prepare the forged and fabricated documents.

10. The application is dismissed.

JUDGE

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