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

CRIMINAL APPLICATION [BA] NO. 837/2020.

Amol Kishorrao Umale @ Amol Ravikishan Kumbhare.

-VERSUS-

State of Maharashtra and another.

Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Shri S.P. Sonwane, Advocate for the Applicant.
Ms. N.P. Mehta, A.P.P. for Non-applicants.

CORAM : VINAY JOSHI, J.

DATE : APRIL 07, 2021.

Heard learned Counsel for the parties through video conference.

2. The applicant namely Amol Kishorrao Umale @ Amol Ravikishan Kumbhare, is seeking regular bail in Crime No.405/2019 registered with Lakadganj Police Station, Nagpur in connection with offence punishable under Sections 406, 409, 417, 419, 420, 465, 466, 467, 468, 469, 471, 472, 473, 474, 120B read with Section 34 of the Indian Penal Code. The learned Additional Sessions Judge has rejected the bail of the applicant prior to filing of the charge sheet and post charge sheet. Along with other usual grounds, the applicant has urged for bail on the ground of parity

and inadequacy of material.

3. The State has strongly resisted the bail application by filing reply affidavit. Both sides have filed copies of relevant papers from the charge sheet, since it runs into volumes.

4. The matter pertains to financial fraud in a Nationalized Bank namely 'Andhra Bank' running into Crores of rupees. The informant Mr. Anand Tupe, Branch Manager received a complaint from one Dharmendra Pande informing that though he had not applied or availed any loan facility, still outstanding loan of Rs.35 lakhs was shown in his name. Shri Pande, informed that when he was about to purchase a mobile phone on finance, his credentials with CIBIL were checked, on which it was revealed that there was an outstanding loan of Rs.35 lakhs in his name with Andhra Bank, Itwari Branch. Shri Pande, had put his grievance in writing in that regard. On receipt of said complaint, the Bank made a preliminary enquiry and found that the co-accused Mangesh Jagtap in connivance with Branch Manager Angha Bhusari and other co-accused has misused the documents of Shri Pande and misappropriated loan amount to the tune of Rs.35 lakhs. On deeper enquiry it transpired that near about 69 bogus loan cases have been prepared involving embezzlement of huge amount of

Rs.9.73 Crores. It reveals that on regular mode the documents of innocent persons were used to prepare false and fabricated loan proposals and amount was grabbed.

5. The learned counsel for the applicant would submit that the applicant is neither a Bank employee, nor has availed loan at any point of time. It is his submission that though certain loans were availed in his name, however, the entire money has passed in to the account of the main accused Mangesh Jagtap. It is stated that the applicant was not the beneficiary, but, he was also a victim. The learned counsel further took me through the Bank account extract of the applicant to impress that no sooner the loan amount was disbursed in his account, immediately the money was transferred in the account of the co-accused Mangesh Jagtap. He has also claimed bail on the ground of parity, by stating that the co-accused Amit Bhagwat who was having similar role, has been released by this Court.

6. Per contra, the State has submitted various documents to show that the applicant had actively participated in the entire fraudulent activities. The applicant has attracted customers and with the aid of the co-accused, prepared false loan proposals and siphoned huge amount. It is argued that the applicant had not

only prepared false loan proposals, but, had prepared bogus sale deeds, forged Advocates opinion, search report etc.

7. Report of the Bank Manager Shri Tupe dated 11.07.2019, discloses that the entire fraud was unearthed due to complaint of Shri Dharmendra Pande. Pertinent to note that Dharmendra Pande stated that he had come across a pamphlet offering assistance for availing loan. On that basis, Shri Pande, had contacted on the given mobile number and had spoken with the applicant, who took his documents with assurances to give loan, however, did nothing. The applicant informed Dharmendra Pande that due to some difficulties he is not eligible to get the loan but, misused his documents. It prima facie appears that all KYC documents of Shri Pande were used by the applicant in preparing bogus loan proposal in the name of Shri Pande, and had siphoned the money with the assistance of the co-accused.

8. The record indicates that in the name of Shri Pande, a housing loan of Rs.20 lakhs, Vehicle loan of Rs.5 lakhs and term loan of Rs.10 lakhs i.e. total loan of Rs.35 lakhs has been availed and money was withdrawn. Police paper contains a chart showing that the applicant himself has availed various type of loan and accordingly an amount of Rs. 67 lakhs was disbursed in his name.

9. The learned counsel for the applicant has mainly argued that though loan was disbursed in the name of the applicant, however, the entire amount was transferred in the account of co-accuse Mangesh Jagtap. In order to impress said submission, he took me through the saving bank account of the applicant with Axis Bank. True, it shows that most of the loan amount received by the applicant was transferred in the name of Mangesh Jagtap. However, the account extract shows that the applicant has time to time withdrawn money by using ATM Card. Moreover, there are certain entries which shows that the applicant had spent huge amount on his luxuries like purchases from Wine shops etc. The account extract also shows some entries like - entries dated 07.12.2017, 15.12.2017, 19.12.2017 and two entries of 27.12.2017, which shows that Mangesh Jagtap has also transferred money in the saving account of the applicant. Thus, the submission that Mangesh Jagtap has received the entire amount appears to be factually incorrect. Besides that the reply filed by the State dated 30.05.2020 before Sessions Court disclose that total 21 lakh rupees have been transferred by Mangesh Jagtap to the account of the applicant. This shows that the applicant was hand in glove and had financial transactions with Mangesh Jagtap and thus, is equal

beneficiary of the duped amount.

10. It is alleged that the applicant had deceived various persons, took their documents and prepared bogus loan proposals. The police paper contains the record to show that total housing loan of Rs. 80 lakhs was sanctioned to the persons namely – Mohan Dhore, Sunita Kusare, Vedprakash Garg, and Govardhan Lanjewar. The entire housing loan amount of Rs.80 lakhs was transferred in the name of the applicant which shows his active participation. Rather it shows that the applicant was behind creation of the loan documents in the name of those persons and had actually received the entire loan amount through his bank account. The State has produced copies of fabricated sale deeds executed in the name of above named persons. It was shown that the applicant Amol was one of the executing party to those sale deeds. Thus, prima facie it is apparent that the applicant was the preparator of the false documents created to obtain loan.

11. Though bail is also claimed on the ground of parity with co-accused Bhagwat, the role of each accused has to be independently assessed. As per record, the amount of loan sanctioned in the name of Amit Bhagwat and his relatives was disbursed in the name of his relatives. There are no allegations that

Bhagwat has lured some persons and prepared false documents of customers. Pertinent to note that the applicant has floated a pamphlet inviting members of public to avail loan, under said pretext obtained their KYC documents and used the same for preparing bogus loan proposals. It is evident that since inception the applicant had deceitful intention to catch innocent persons in the trap for his own benefit. Moreover, there are statements of Auditor, valuers which shows that bogus audit report and opinion were prepared while availing loan in the name of the applicant.

12. The matter is not only about misappropriation of Rs.67 lakhs by the applicant in his own name, but, he has also prepared loan proposals in the name of some other persons of which the amount has been credited in his account. Not only that, his modus was to issue pamphlets to attract people under the guise of assisting them in availing loan. The possibility of preparing some more bogus loan proposals cannot be ruled out. Role of the applicant is quite serious and more grave then of the co-accused who has been enlarged on bail. It is evident that the applicant and main accused Mangesh Jagtap, whose bail was rejected, were part of the conspiracy since inception.

13. It emerges that the applicant has actively participated

and is involved in committing economic offence for his personal benefit at the cost of public money. Merely because charge sheet is bulky and the trial will take long time, is not enough, particularly looking to the crucial role attributed towards the applicant. Considering the seriousness of the offences, amount involved, crucial role played by the applicant etc., he does not deserve to be enlarged on bail. Criminal Application is therefore, rejected.

<u>JUDGE</u>

Rgd.