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

CRIMINAL APPLICATION (ABA) NO.548/2021

Arvind s/o Gopalrao Raut and another,

-**VERSUS**-

State of Maharashtra through Police Station Officer, Police Station Shegaon City, District Buldhana.

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

Shri R.D. Karode, Advocate for applicants.
Shri A.R. Chutke, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATE : NOVEMBER 22, 2021.

Heard.

State Bank of India has lodged report alleging that both the applicants already sold their immovable property, however, later on by mortgaging the same, have obtained the loan of Rs.10,00,000/- and therefore the report.

Perusal of documents indicate that the applicant no.1 was the exclusive owner of a piece of land which he has sold on 27/01/2005 to third party. Thereafter, again he alone has mortgaged the said piece of land to the Bank on 10/12/2012 towards security for the payment advanced. Prima facie the record indicates deceitful intention to chit. However, it is not necessary in each and every case to put the accused behind bar by curtailing his liberty. The case is totally based on documentary evidence which are already seized by police. Pertinent to note that during pendency of this application, the applicant no.1 undertook to repay entire loan amount. By such assurance the applicant took certain adjournments and finally satisfied the entire loan of informant Bank for which No Due Certificate (certificate signed on 17/11/2021 of Bank Manager) has been tendered.

Learned APP took instructions from informant Bank and made a statement that No Due Certificate is correct and as per said certificate, the applicant no.1 has satisfied the entire Bank loan. Having regard to this fact, custodial interrogation is not warranted. So far as the applicant no.2 is concerned, it reveals that she was neither owner of the plot nor mortgagor. Prima facie there appears to be no nexus of applicant no.2 which the investigation officer should ascertain at the time of filing charge-sheet. While parting with the order it is necessary to express that the State Bank of India should also verify their mechanism of getting search reports before disbursement of loan. The applicant no.1 is in police service as ASI and therefore there is no likelihood of abscondance. In view of that following order:

i) Application stands allowed.

ii) Ad-interim order dated 27/08/2021 pertaining to applicant no.2 and ad-interim order dated 27/09/2021 pertaining to applicant no.1 are hereby made absolute, upon same terms and conditions.

Henceforth, the applicants shall attend police station as and when called.

iii) The application stands disposed of.

JUDGE

R.S. Sahare