IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 592/2021

(Hanmantrao S/o Rangrao Kasawar Vs. State of Maharashtra)

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

Shri A. S. Dhore, Advocate for applicant.
Shri Anand M. Deshpande, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 26.11.2021.

Heard.

2. Registration of Crime No. 12/2018 with the Police Station Lohara, District Yavatmal for offence punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code, led the applicant to approach this Court for grant of pre-arrest bail. Protection is sought on usual grounds like innocence, false implication etc. The State resisted bail by filing reply-affidavit contending facts and seriousness of offence.

3. The Branch Manager of State Bank of India has lodged report against applicant and three others for aforesaid offences. It is contended that applicant Hanmantrao had applied for secured cash credit loan of Rs. 95 lakhs by offering certain immovable property of his brother i.e. co-accused Sunil as a security. At that time, applicant and co-accused Sunil have falsely

represented that co-accused Sunil holds clear title of the property offered for mortgage. At the relevant time, color photo copies of title deed and revenue extract were handed over to Bank to impress that co-accused Sunil holds the clear title. Believing on said representation, loan of Rs. 95 lakhs was sanctioned and disbursed, against the security created by way of executing mortgage.

4. The applicant initially paid some installments but latter on, he did not pay. In the result, the loan account turned N.P.A. with huge outstanding of Rs. 89.01 lakhs. In view of that, the Bank took re-search of the secured mortgaged property on which found that the mortgaged property owned by co-accused Sunil was already mortgaged with the Yavatmal Mahila Urban Co-operative Bank by way of registered mortgaged. It was realized that the applicant along with co-accused Sunil by producing color photocopies of title deeds and revenue extract, deceived the Bank by posing them to be original. In other words, the applicant has suppressed the prior mortgage by producing photocopies as original to obtain cash credit loan facility.

5. Perused the entire case papers and particularly color photo copies of title deeds. Not only photo copies of title deeds have been produced, but photo copies of revenue extracts were also produced to show clear marketable title. The Police paper

indicates that already on the strength of mortgage of same property, the applicant has obtained huge loan of Rs. 2.50 crores from Yavatmal Mahila Urban Co-operative Bank. Apparently, by suppressing prior mortgage and by misrepresenting that the property was having clear title, deceitfully re-mortgaged it towards security. On the strength of such misrepresentation, huge loan was obtained. It is apparent that since inception, there was intention to deceive. Prima facie, strong material exists against the applicant. Pertinent to note that mortgagor is brother of applicant, meaning thereby applicant's knowledge of prior mortgage is very much evident. The matter requires thorough investigation, hence it is not a fit case to grant pre-arrest protection.

6. In view of above, application stands rejected and disposed of.

JUDGE

Gohane