

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.259 OF 2022

RAJKUMAR GANGADHAR KOTALWAR
VERSUS
THE STATE OF MAHARASHTRA

...
WITH
CRIMINAL APPLICATION NO.907 OF 2022

...
Mr. S. J. Salunke, Advocate for applicant.
Mrs. Vaishali Patil Jadhav, APP for the respondent – State.
Mr. H. I. Pathan, Advocate for applicant in APPLN/907/2022
...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 15.03.2022

ORDER :-

. The applicant is apprehending his arrest in connection with Crime No.27 of 2022 registered with Ahmedpur Police Station, Dist. Latur for the offence punishable under Section 39 of Maharashtra Money-Lending Regulation Act, 2014.

2. Heard learned Advocate Mr. S. J. Salunke for the applicant and learned APP Mrs. Vaishali Patil Jadhav for the respondent - State well assisted by learned Advocate Mr. H. I. Pathan for the original complainant. In order to cut short, it can be said that they have made submissions in support of their respective contentions.

3. It is to be noted that the FIR has been lodged by one Rupesh Chandrakant Sanghai, who appears to be the Registrar, Cooperative Society, Ahmedpur. It is on the basis of the complaint filed by Dr. Avinash Rajendra Ugile, who is the applicant in Criminal Application No.907 of 2022 stating that he had taken loan of Rs.3,00,000/- in January, 2017. The applicant had charged him interest at the rate of Rs.3% per hundred. He states that he had repaid that loan. He then states that whenever he used to be in financial need, he used to take amount from the applicant and uptill now, he has repaid amount of Rs.39,31,600/- together with interest. He had given certain cheques also to the applicant. According to the original complainant, the applicant is doing illegal money-lending. It has been further stated in the FIR that the inquiry into the complaint was made and the residence of the applicant was searched. They have found various documents and then the concerned authority has come to the conclusion that he is doing illegal money-lending business. In other words, he is doing business of money-lending without valid licence. It is, therefore, stated that he has committed offence punishable under Section 39 of the Maharashtra Money-Lending Regulation Act, 2014 .

4. Important point to be noted here is that his search has already been done by the competent authority on 27.11.2021 and 29.11.2021

and many documents have been seized. Section 39 of the Money-Lending Act prescribes for the punishment of either description for a term which may extend to five years or with fine which may extend to fifty thousand rupees or with both. Under such circumstance, the ratio laid down in *Armesh Kumar Vs. State of Bihar and another, [(2014) 8 SCC 273]* will have to be followed by the Investigating Officer. Except stating that certain more documents are required to be seized, there appears to be nothing which can be stated by the Investigating Officer as a reason for arrest under Section 41-A of the Code of Criminal Procedure. When already search has taken place, then which documents have been left is not made known by the Investigating Officer. He cannot just imagine that certain more documents would be with the applicant. Asking the applicant to cooperate with the investigation and produce all those documents which would be called upon by the investigating officer would suffice in this case and, therefore, the application deserves to be allowed :-

ORDER

- I) Application stands allowed.
- II) In the event of arrest of the applicant – Rajkumar Gangadhar Kotalwar in connection with Crime No.27 of 2022 registered with Ahmedpur Police Station, Dist. Latur for the

offences punishable under Sections 39 of the Maharashtra Money-Lending Regulation Act, 2014, he be released on P. R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.

III) The applicant to produce all those documents which would be called upon by the investigating officer and cooperate with the investigation.

IV) He should attend the concerned Police Station daily between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.

V) He shall not tamper with the evidence of the prosecution in any manner.

VI) He shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm