IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.281 OF 2022

GULAB VITHOBA BARAMATE
VERSUS
THE STATE OF MAHARASHTRA

…..
Advocate for Applicant : Mr. V. Y. Bhide
APP for Respondent-State : Mr. B. V. Virdhe
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 28-03-2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.1987 of 2020, registered with the Sangamner City Police Station, District Ahmednagar, for the offence punishable under Section 420, 468, 471 of IPC.

2. Heard learned Advocate Mr. V. Y. Bhide for applicant and learned APP Mr. B. V. Virdhe for respondent-State. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR lodged by one Umesh Sukhdeo Shinde on 05-11-2020 vide Crime No.1987 of 2020 with Sangamner City Police

Station, District Ahmednagar, for offence punishable under Section 420, 468, 471 of IPC, would show that he is serving since last 18 years with Sangram Nagri Sahakari Patsanstha Maryadit Sangamner as Manager. Their institution used to collect deposits and give loan to the members. Pravin Vilasrao Deshmukh who was the proprietor of Sahyadri Food And Agro Industries had applied for loan of Rs.40 lakh on 05-03-2016 with the institution of the informant. On the same day by separate application, the wife of said Pravin Deshmukh had also prayed for grant of loan to the same institution i.e. Sahyadri Food and Agro Industries. It was to the tune of Rs.40 lakh. The agricultural land standing in the name of Pravin Deshmukh was given in mortgage. Registered mortgage deed was executed on 18-03-2016. After the necessary documents were given, the amount of loan was disbursed. Pravin Deshmukh had then assured that he would get the entry entered into 7/12 extract of the land about the loan that has been taken by him. A 7/12 extract was handed over to the informant on 22-03-2016. Number of mutation was not mentioned in the said 7/12 extract. It was assured by Pravin that it is necessary to get the mutation entry done. On 05-04-2016 he gave 7/12 extract showing the necessary changes with the land. The installment for the repayment of the loan was not regularly paid, and therefore, time and again notice was issued to Mr. and Mrs. Deshmukh for repayment of the loan. The institution had also filed suits in various Courts in respect of the recovery of the amount. When the inquiry was going on, it was found that one Sangram Nagri Sahakari Pat Sanstha has made entry about registered mortgage on 23-12-2013 in respect of the loan taken from the said financial institution. It appears that intentionally that loan was not reflected in the 7/12 extract of the said land. Mr. and Mrs. Deshmukh were knowing about the said transaction, yet they had not disclosed anything. The present applicant was serving as Kamgar Talathi by taking him in hand forged documents have been created and the bank has been cheated.

4. The present applicant had filed Cri.Bail Appln.No.42 of 2022 for pre-arrest bail, which came to be rejected by learned Additional Sessions Judge, Sangamner on 05-02-2022.

5. The applicant who was serving as Talathi and the role attributed to him is that he has not taken the entry of the earlier registered mortgage deed. It is to be noted that the applicant was available before the Investigating Officer on 09-10-2020 and from the police papers it can be seen that his statement has been

recorded. The question therefore is, as to why he was not arrested on that day. The Investigating officer has not given reasons for the same. Even if we consider the contents of the FIR as it is, the misappropriation and cheating has been done by accused No.1 and 2 i.e. Mr. and Mrs. Deshmukh to the tune of Rs.80 lakh. The role of the applicant would be around Section 468 and 471 of IPC. But taking into consideration the facts of the case it is to the tune of not taking the entry about the encumbrance. The informant who is the Manager of the financial institution has not stated that before giving loan of lakh of rupees to the accused No.1 and 2, they had taken search report from a legal practitioner and had tried to eliminate any foul play. A financial institution cannot grant loan amount only on the basis of 7/12 extract. 7/12 extract is not a document of ownership. How far the act of not taking the entry about the encumbrance on 7/12 extract would have affected the transaction between the informant's institution and the accused No.1 and 2, is a question. The police papers show that accused No.1 and 2 had also taken loan from one Sahakar Maharshi Bhausaheb Santuji Thorat Amrutvahini Bank Limited Ghulewadi. There is a search report of Advocate Mr. B. K. Waman dated 10-12-2013 on the investigation papers. As per the informant, the loan was given to accused No.1

and 2 on 05-03-2016. When another Pat Sanstha/ financial institution can take search report through a legal expert, why the informant has not taken will have to be considered by the trial Court at the time of final assessment. The facts do not warrant custodial interrogation of the applicant. If we make him available for the investigation, then it would be justifiable for the progress of the investigation. With these observations, the application stands allowed. Hence, following order.

ORDER

1) Application stands allowed.

2) In the event of arrest of applicant Gulab Vithoba Baramate, in connection with Crime No.1987 of 2020, registered with Sangamner City Police Station, District Ahmednagar, for the offence punishable under Section 420, 468, 471 of IPC, he be released on PR Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.

3) He shall co-operate with the investigation and shall attend the police station on every Sunday between 10.00 a.m. to 02.00 p.m.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.