<u>IN THE HIGH COURT OF JUDICATURE AT BOMBAY</u>
<u>BENCH AT AURANGABAD</u>

ANTICIPATORY BAIL APPLICATION NO.363 OF 2022

SIDDHARTH S/O BABASAHEB THORAT
VERSUS
THE STATE OF MAHARASHTRA AND ANR

…
Mr. R. S. Deshmukh, Senior Counsel i/b Mr. D. R. Deshmukh, Advocate for applicant.
Mr. B. V. Virdhe, APP for the respondents – State.
…

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27.04.2022

<u>ORDER</u> :-

. Applicant is apprehending his arrest in connection with Crime No.51 of 2022 registered with Anandnagar Police Station, Dist. Osmanabad for the offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of Indian Penal Code.

2. Heard learned Senior Counsel Mr. R. S. Deshmukh for the applicant and learned APP Mr. B. V. Virdhe for the respondents – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. The First Information Report has been filed by one Hiralal Mahadev Mote. He claims that he was in need of loan and, therefore,

approached one Babasaheb Maruti Thorat, who is working as a clerk in Mahatma Phule Magasvarga Vikas Mahamandal Maryadit, Osmanabad. The said institute gives loan to the needy persons qualifying for the loan. Informant handed over the necessary documents. Though he was running a Computer Centre, the loan was applied for tethering of cattle. Ten blank cheques were taken from the informant drawn on Canara bank. Father of the applicant promised him that he would prepare the file. Thereafter in February, 2020 it was informed by Babasaheb Thorat to the informant that his loan has been sanctioned and, therefore, he should come to the office and, accordingly, informant went to the office. At that time, the sanction letter was given to the informant and told that 5% of the sanctioned amount i.e. Rs.1,25,000/- should be paid by him immediately. Therefore, informant collected the said amount and gave cash of Rs.1,25,000/- to Babasaheb Thorat in presence of the informant's friend Sushant Thombre. Even an entry was taken about the receipt of payment and signature of the informant was also taken. Again after four days, he received phone call from Babasaheb Thorat stating that some further requirements have to be complied with. Again his signature was taken on the register and it was then promised that the actual disbursement of the loan amount would be made in few days. In October, 2020, Babasaheb Thorat again contacted the informant and told informant that he should keep one surety and one agriculturist surety ready and bring them to office. When he told that he doesn't have a surety who is having job, at that time, it was represented to him that again he will have to pay 5% of the sanctioned amount. Otherwise, the said condition will not be cancelled. It was then promised that the present applicant, who is the son of Babasaheb Thorat, would make efforts to get that condition cancelled from Mantralaya and Pune Welfare Department. Again the informant gave amount of Rs.1,25,000/- to Babasaheb Thorat for getting that condition cancelled. Still on many occasions, when he made inquiry, each time promises were made. Even the applicant had made promise that the loan would be sanctioned. Ultimately, it was realised that the sanction letter is false. According to the informant, he has been cheated by the applicant and his father to the tune Rs.2,73,625/-.

4. Perusal of the aforesaid contents of the FIR would show that the amount is stated to have been handed over to the father of the present applicant. Applicant states that he is employed as Technician with Maharashtra State Electricity Development Corporation, Pune Zone, Pune. According to the applicant, he has not taken part in the said transaction. Merely because he is in government job, his name has been included.

5. Statements of witnesses have been recorded including the statement of one Mangesh Sambhaji Pratap, who is the friend of the informant and was present when amount of Rs.1,25,000/- was paid in cash by informant to Babasaheb Thorat. It also appears that there are also statements of those persons to whom Babasaheb Thorat had cheated. Bhujang Madhukar Gangawane, Vandana Krushna Ghone, Panchashila Ashok Gade, Jyoti @ Bhagyashree Nandkishor Tompe, Primita Rajendra @ Rajabhau Ohal, Jyoti Uttam Dupargude, and Sushant Shashikant Thombre are those persons to whom it is alleged that Babasaheb Thorat had cheated. They have also stated that promise was given to them for sanction of loan through Mahatma Phule Magasvarga Vikas Mahamandal, Pune and even the present applicant had taken part in the said transaction. However, it is to be noted that none of them have lodged report. As regards the present informant is also concerned, it is stated that the occurrence of offence was between 03.02.2020 to 08.02.2022 and ultimately, FIR has been lodged on 08.02.2022. There appears to be some delay in lodging the report. As regards the present applicant is concerned, the role attributed to him by the informant as well as other witnesses are that he had also promised those persons that the loan would be sanctioned. At the cost of repetition it can be said that none of them have stated that they had

handed over the amount to the present applicant. We are required to consider the allegations in the FIR at this stage and in view of the voluntary statement made on 20.04.2022 that in order to show bona fides the applicant would deposit amount of Rs.2,75,000/-, the interim protection was granted. Accordingly, the amount of Rs.2,75,000/- has been deposited by the applicant in this Court. The custodial interrogation of the applicant is not required. Making him available for the investigation would be sufficient. Hence, the following order :-

ORDER

I) Application stands allowed.

II) The interim protection granted earlier to the applicant vide order dated 20.04.2022 stands confirmed and made absolute. In other words, in the event of arrest of applicant – Siddharth Babasaheb Throat, in connection with Crime No.51 of 2022 registered with Anandnagar Police Station, Dist. Osmanabad for the offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of Indian Penal Code, he be released on P. R. Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each, if not already released.

III) The applicant shall remain present before the Investigating Officer as and when called and cooperate with the investigation.

IV) He shall not indulge in any criminal activity nor he should tamper with the evidence of the prosecution, in any manner.

V) Registrar (Judicial) to transfer amount of Rs.2,75,000/- to the account of Chief Judicial Magistrate, Osmanabad and the disposal of said amount to be made by the learned Chief Judicial Magistrate or by any other Judicial Magistrate First Class, to whom the case would be transferred, as per Section 452 of the Code of Criminal Procedure.

[SMT. VIBHA KANKANWADI, J.]

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