

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

APPLICATION FOR CANCELLATION OF BAIL NO.80 OF 2021

GANESH JAYRAM CHAUDHARI

VERSUS

BHUSHAN DEVIDAS BAVISKAR AND ANOTHER

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Mr. S.S. Gangakhedkar, Advocate for the applicant

Mrs. V.N. Patil-Jadhav, APP for the respondent No.2

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 08th APRIL, 2022

ORDER :

1 Present application has been filed under Section 439(2) of the Code of Criminal Procedure, 1973 by the original informant challenging the order of granting bail by learned Additional Sessions Judge, Aurangabad in Bail Petition No.433/2021 dated 18.03.2021 in connection with Crime No.68/2021 registered with Kranti Chowk Police Station, Aurangabad, for the offence punishable under Section 420, 406, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860 to the respondent No.1.

2 Heard learned Advocate Mr. S.S. Gangakhedkar for the applicant

and learned APP Mrs. V.N. Patil-Jadhav for the respondent No.2.

3 Perusal of the First Information Report lodged by the present applicant would show that it is the outcome of the order passed by the learned Magistrate under Section 156(3) of the Code of Criminal Procedure. The applicant had filed the private complaint in the capacity as a Manager of L & T Finance Company Limited. On the basis of his said complaint, First Information Report has been lodged for the offence punishable under Section 420, 465, 468, 471, 406 read with Section 34 of the Indian Penal Code. Perusal of the said First Information Report (which is the replica of private complaint) would show that original accused No.1 Sarfaraj Siraj Siddiqui had given an application for loan in November, 2018 with their company. After inspection the Inspector had opined that he is not a fit person to whom the loan can be granted. However, the Sales Manager – accused No.2 Vishal Raosaheb Jadhav informed accused No.3 Bhushan Devidasrao Baviskar i.e. present respondent No.1 that he should make the inspection of the business and house of accused No.1 and gave report. Accused No.3 thereafter without there being any authority to sanction loan has misused his post and sanctioned the loan of Rs.31,00,000/- as well as Rs.65,803/-. The accused No.1 did not repay the loan and, therefore, inspection of the property, on which the loan was granted, was inspected. It was found that accused No.1

was not residing at that place. Some other person was residing. It was found that the documents which were submitted by accused No.1 are false.

4 The respondent No.1 – accused No.3 filed the application under Section 438 of the Code of Criminal Procedure and it came to be granted by learned Additional Sessions Judge, Aurangabad on 18.03.2021. While deciding the application it has been mentioned that the documents collected by the investigating agency by that time do not attribute any specific role to the applicant i.e. present respondent No.1 for forgery of the documents. The role of the said applicant was limited to the recommendation. Further, at that time it appears that the respondent No.1 was found Covid positive and was hospitalized and that had also prompted the learned Additional Sessions Judge to grant the bail.

5 At the outset, it is to be noted that the investigation of the case was dependent on the documents which were already with the company. That loan came to be sanctioned on 03.12.2018. If the respondent No.1 had no authority at all to sanction the loan, then, why it was not immediately noticed by the company authorities, is a question. Then, it is not necessary to wait till 2021 to lodge the reject. The custodial interrogation of the respondent No.1 appears to have been not required and, therefore, the

discretion appears to have been rightly exercised. There is no merit in the application. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)

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