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

ANTICIPATORY BAIL APPLICATION NO.699 OF 2022

Vishal Payaruji Ingale ...Applicant

VERSUS

The State of Maharashtra ...Respondent

...
Mr. S.G. Magare, Advocate for the applicant.
Mr. A.A. Jagatkar, APP for the respondent-State.
...

CORAM : S.G. MEHARE, J.

DATED : 18th JULY, 2022

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State at length.

2. The prosecution has a case in brief that the applicant in conspiracy with the valuers appointed by the bank has sanctioned the loan to the borrowers by overvaluing their mortgaged properties.

3. The applicant was the branch manager of the bank at the relevant time. He was not named in the FIR, however, subsequently, he has been arraigned as an accused. It has been alleged against him that he did not performed his duties properly. He did not form his correct opinion about the valuation of the properties so mortgaged and he in conspiracy with the valuers appointed by the bank

disbursed the loan to the borrowers without verifying their capacity to repay the loan.

4. The learned counsel for the applicant has vehemently argued that the applicant was to rely upon the valuation reports of the valuers appointed by the bank. He has done his job inspecting the property proposed to be mortgaged. He has done it promptly. Relying upon the valuation report, he sanctioned the loan to the borrowers. He has discharged his duties bonafidely. He has committed no fraud as alleged. However to implicate him falsely in the crime, he has been arraigned as an accused.

5. The learned APP has strongly opposed the application contending that the applicant in conspiracy with other co-accused, without verifying the documents and valuation of the property had disbursed the loan to the persons who have no capacity to repay the loan. He failed in discharging his duties. The bank has been put to great loss due to many such incidents happened during his tenure as a branch manager. The prosecution has a suspicion against the applicant that heavy corruption has been done by him in conspiracy with the government valuers. If such type of persons are released on anticipatory bail, a wrong message would go to the society. Therefore, his custodial interrogation is required.

6. This Court by order dated 09.02.2022 has released the government valuer on anticipatory bail. The allegations against the

applicant is that he did not perform his duties and without verifying the valuation of the property mortgaged, he has disbursed the loan to the persons not capable to repay the loan. The applicant was not named in the FIR but subsequently, he has been arraigned as an accused. The learned APP has referred to certain documents from the papers submitted by him that shows that the applicant had visited the spot and the property which was to be mortgaged and he made the inquiries and satisfied with the valuation report submitted by the valuers. He then proposed the application of the borrowers for sanction. He also verified the property which was described in the valuation report and formed an opinion that the property was marketable on market price. Obviously, the branch manager is unable to determine the value of the property. Therefore, the experts have been appointed by the bank. The applicant had only the reports of the valuers to rely upon for the valuation of the property to be mortgaged. He is not an expert so by bare visiting on the spot, he could value the property. Rather it is not his job. His job is to verify whether the property proposed to be mortgaged exists or not and he has done his job promptly.

7. Considering the allegations and the case of the prosecution, this Court is of the view that the arguments of the learned APP that to avoid the wrong message to the society, the custodial interrogation may be allowed, has no legal bare. The

burden is on the prosecution to satisfy the Court that custodial interrogation of the alleged accused is required to discover some facts or recover some material relevant to the crime. The present case is completely based on the documents which are lying with the bank. The primary allegations are that the loan has been disbursed to the borrowers by overvaluing the property they have mortgaged. Once again, it may be stated that the branch manager has to form an opinion as regards the valuation of the property proposed to be taken on mortgage is based on the valuation report of the expert. So in entirety, the prosecution has nothing to satisfy the Court that custodial interrogation of the applicant would serve the purpose. Therefore, the application deserves to be allowed. Hence the following order :

ORDER

(A) The Application is allowed.

(B) In the event of arrest, the applicant, Vishal Payaruji Ingale, be released on bail, on executing P.B. and S.B. of Rs.20,000/- (Twenty Thousand) with one solvent surety in the like amount in connection with Crime No.421 of 2021, registered with Bhuswal Bazarpeth Police Station, District Jalgaon for offence punishable under Sections 420, 465, 468, 471 r/w 34 of the Indian Penal Code,, on the condition that he shall attend the police station as and when called by the Investigating Officer on written notice and shall not tamper with the prosecution witnesses.

(S.G. MEHARE, J.)

Mujaheed//