IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1411 OF 2021

ASHOK MOTILAL DAHAD

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Joydeep Chatterji, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

...

WITH

ANTICIPATORY BAIL APPLICATION NO.1438 OF 2021

SAMEER WAMAN BELE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. K.C. Sant, Advocate for the applicant

Mr. A.M. Phule, APP for respondent Nos.1 and 2

...

WITH

ANTICIPATORY BAIL APPLICATION NO.1470 OF 2021

AFSANABANO KALIM KHAN

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.S. Patil, Advocate for the applicant
Mr. A.M. Phule, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.
RESERVED ON : 25th JANUARY, 2022
PRONOUNCED ON : 09th FEBRUARY, 2022

ORDER :

1 All the applicants are apprehending their arrest in connection with Crime No.421/2021, dated 07.10.2021 registered with Bhusawal Bazarpeth Police Station, Dist. Jalgaon, for the offence punishable under Section 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860.

2 Applicants are now referred to by their names for the convenience. Applicant Ashok Dahad and Sameer Bele are the Architects and Government Valuers, who were on the panel of the State Bank of India, Bhusawal Branch. Applicant Afsanabano is the person who has taken loan from the Bank. The learned Advocates for the applicants are submitting that informant Manoj Belekar is the Branch Manager of State Bank of India, Bhusawal Branch and he is the successor of one Vishal Ingale and Nandlal Patil. Inquiry was going on in respect of alleged corruption or fraudulent

practices used during the tenure of Ingale and Patil, when informant took the charge. It was revealed that applicant Afsanabano had given false valuation report and thereafter the Bank had disbursed loan at inflated rate. It transpired that applicant Ashok and Sameer had given those valuation reports at a higher rate. Afsanabano had legally purchased plot No.54 in Sy. No.5/3 from one Kamalbai Borse. The Architects-cum-Government Valuers say that they had visited the property personally and then taking into consideration the documents, produced with them and also the ready reckoner from the area of immovable property where situated, they had given correct valuation. They have not committed any offence nor adopted any corrupt practice. The physical custody of the applicants is not required. They are ready to cooperate with the investigation. The interim protection granted by this Court deserves to be confirmed.

3 Learned Advocate representing Afsanabano further submitted that in fact, she is the person who had raised the voice and made complaint. She is the victim of conspiracy and financial embezzlement of the then concerned bank employees. She cannot be made as an accused along with the co-accused. The main culprits had siphoned the amount from the Bank and gave it to the other account holders, who had taken loan, though they were not entitled to. Therefore, the custodial interrogation of the applicant

Afasanabano is also not necessary.

4 Learned APP strongly opposed all the applications and submitted that applicant Ashok has given valuation report in respect of Afsanabano. Amount of loan that was sanctioned was Rs.12,50,000/- and the old valuation was shown to be Rs.19,12,000/-. New valuation was shown as Rs.2,90,630/-. Amount of Rs.1,08,000/- was repaid out of that outstanding amount of Rs.13,73,130/-. Likewise this, in respect of 8 other persons applicant Sameer has given valuation reports, which were very much on the higher side and thereby the bank has been defrauded to the extent of Rs.1,50,00,000/-. The basic purpose, for which the valuation report from an expert was called by the Bank, was that they would give proportionate loan to the person who seeks loan from them. But here, intentionally more valuation was shown than its entitlement, thereby the public money was wasted and more amount was given to those persons who were not eligible to that extent. It was the wrongful loss of the Bank, but wrongful gain to the borrowers. Further, if the borrowers ultimately unable to repay the loan that would be then treated as Non Performing Asset (NPA), which would again cause loss to the Bank. The panel of valuers is prepared by the bank and they are the registered valuers and they are guided by model code of conduct for valuers. The basic structure of this model code of conduct is designed by the

Reserve Bank of India itself for all the Nationalized Banks. Such valuers are required to give true report to the Banks. When the public money is involved, the applicant shall not be released on anticipatory bail.

5 It will not be out of place to mention here that learned Advocate representing applicant Ashok has placed on record certain valuation reports, which are available on website dealing in properties, but at this stage itself, this Court makes it very clear that such backgrounds are unacceptable, because its authenticity will have to be proved by the person, who is relying upon it, at the time of trial. We are at a very preliminary stage here.

6 As aforesaid, informant is the present Branch Manager of Jamner Road Branch, Bhusawal. He has stated that he has been succeeded by Vishal Ingale and Nandlal Patil. When he joined the Branch, already the inquiry into the complaint about misdeeds in the loan distribution was going on, and then he gives the result of what was transpired by the Inquiry Officer. It was revealed that in respect of about 8 valuers they could find that they had submitted valuation report which was more than its actual value. It is to be noted that the valuers are appointed by the Bank and not by the individuals. Definitely, it appears that those valuers are guided by the model code of conduct. If they are not adhering to that model code of conduct, then, the

Bank would be at liberty to take up appropriate action, but whether it amounts to offence is then required to be seen. Whatever has been collected uptill now by the Investigating Officer would show that 9 persons, who had taken loan, had given false documents showing that in fact, there was a constructed building and which has been purchased or agreed to be purchased. But, in fact, there was nothing at the spot. The said inquiry appears to be made as per the First Information Report by one Suresh Sonawane. But the police papers do not show that his statement has been recorded uptill now. The plot was not found in respect of another person i.e. accused Majid Khan Idris Khan, but then it is stated that he had sold the property to Afsanabano, which showed that there was RCC construction of ground floor, to the extent of 85 sq.mtrs., as shown in the First Information Report. However, later on supplementary statement has been recorded, which shows that there was no such plot, but its description was different. It was 180 sq.mtrs., but 90 plot was purchased by her, out of which 85 sq.mtrs. was the constructed portion. If we consider each and every transaction, it is then stated that valuation has been done on higher side. It can be seen that when the entire procedure goes through so much of precautions and steps, then, whether there was any kind of scope for falsehood is required to be seen.

7 Applicant Ashok and Sameer are the Government valuers. They could not be gone into whether a person is owner or not, but on the basis of whatever documents which would have been furnished by the Bank to them and also if desire called by them from the client, there could not have been a scope to increase the amount. It is prima facie impression of this Court. The investigation appears to be based mainly on the documents and, therefore, the physical custody of the applicants appears to be not required. However, asking them to attend the Police Station would suffice for the progress of the investigation. Therefore, interim protection granted by this Court earlier to the applicants deserves to be confirmed. Hence, following order.

ORDER

1 All applications stand allowed.

2 The ad-interim protection, granted by this Court earlier to applicants in A.B.A. No.1411 of 2021 and A.B.A. No.1438 of 2021 vide order dated 03.12.2021, is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of applicant viz. **Ashok Motilal Dahad in A.B.A. No.1411 of 2021** and applicant viz. **Sameer Waman Bele in A.B.A. No.1438 of 2021**, in connection with Crime No.421/2021, dated 07.10.2021 registered with Bhusawal Bazarpeth Police

Station, Dist. Jalgaon, for the offence punishable under Section 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one or more sureties in the like amount.

3 The ad-interim protection, granted by this Court earlier to applicant in A.B.A. No.1470 of 2021 vide order dated 06.12.2021, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of applicant viz. **Afsanabano Kalim Khan in A.B.A. No.1470 of 2021**, in connection with Crime No.421/2021, dated 07.10.2021 registered with Bhusawal Bazarpeth Police Station, Dist. Jalgaon, for the offence punishable under Section 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860, she be released on P.R. of Rs.20,000/- (Rupees Twenty Thousand only) with one or more sureties in the like amount.

4 All the applicants shall not indulge in any criminal activity nor shall try to tamper with the evidence of prosecution, in any manner.

5 They shall cooperate with the investigation.

6 Applicants in A.B.A. No.1411 of 2021 and A.B.A. No.1438 of

2021 shall attend Bhusawal Bazarpeth Police Station, on every Monday and Thursday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

7 Applicant in A.B.A. No.1470 of 2021 shall attend the concerned Police Station, as and when called by the Investigating Officer.

(Smt. Vibha Kankanwadi, J.)

agd