IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1548 OF 2021

Nitin S/o Rajendra Borude
...APPLICANT

VERSUS

The State of Maharashtra
...RESPONDENT

...
Mr.Balraj P. Pande Advocate for Applicant.
Mr.N.T. Bhagat, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 18th JANUARY, 2022

ORDER :

1. Present applicant is apprehending his arrest in connection with Crime No.352 of 2021 registered with Harsul Police Station, Aurangabad City for the offence punishable under Sections 406, 420 of the Indian Penal Code.

2. Heard learned Advocate for the applicant and learned APP for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated by the informant. Applicant was employee with Swasti Micro Finance Limited, Mayur Park branch as recovery officer since December 2020. Applicant admits that he was having charge to collect loan installments from those clients who were granted loan by the company. However, the applicant had given a complaint application to Police Inspector, Harsul Police Station, Aurangabad on 7th July 2021 itself making allegations against present informant as well as one Siddharth Alhat. They were pressurizing the applicant and when in fact he had intention to tender resignation on account of illness of his father and disclosed the said fact to the superiors i.e. informant and said Siddharth Alhat. They told that he may not come for duty but somebody would be sent for recovering the installments on his behalf and his duty would be adjusted. According to the applicant, he had not done his duty about a month. He could find that certain amount has been deposited in his account when he had not made any such recovery. He asked about the same to his superiors, but the superiors could not give proper answer. Thereafter, when he made allegations about misappropriation, he was abused and threatened that he would be implicated. Those two persons had

thereafter demanded amount of Rs.5,50,000/- to settle the matter and not to lodge any report against him. Those two persons had been to his house on 4th June 2021 and told applicant's father that if he does not give amount of Rs.5,50,000/- then the applicant would be put in jail. The health of grand-mother of the applicant got deteriorated because of the said incident. Again on three occasions those two persons had been to the house of the applicant and gave threats. Applicant's grand-mother was under tension and expired in that state of affairs on 19th June 2021. Applicant had stated that his father had given Rs.50,000/- to those two persons on 21st June 2021. Thereafter, on 24th June 2021 amount of Rs.30,000/- and on 2nd July, 2021 amount of Rs.70,000/- have been given, still those two persons were demanding further amount and therefore, that complaint was lodged with the police station. However, no cognizance was taken by the police.

4. It is further submitted on behalf of the applicant that the applicant has kept his accounts i.e. record of the amount which he had collected, on simple paper. Therefore, taking into consideration all these aspects, the allegations in the First Information Report are false and for that purpose the

investigation can go on as it is depending on the documents, but the custodial interrogation of the applicant is not necessary. The applicant was released on ad interim relief by this Court by order dated 21st December 2021. He had attended the police station and co-operated with the investigation.

5. Per contra, the learned APP strongly opposed the application and submitted that the First Information Report has been lodged by the Unit Manager of the company specifically assigning role to the present applicant. The applicant was the recovery officer i.e. responsible for collecting the installments of the loan from the members. According to the informant, the applicant had collected the amount of installments in advance in respect of March, April and May 2021. However, he has updated only one installment and had not deposited the amount in respect of the two installments, thereby misappropriating amount of those two installments. Inquiry was made by the informant and at that time it was disclosed to him by the applicant that since he was in need of money for the treatment of his father, he had taken those amounts in advance. It is to be noted that such advance has been taken from 208 ladies who were the members of the company and the amount which was

collected in advance from them amounted to Rs.6,79,797/-. That much amount has been misappropriated by the present applicant, therefore, he does not deserve to be released on anticipatory bail.

6. Perusal of the police papers as well as the papers which have been produced by the applicant would show that the applicant was the recovery officer appointed with Swasti Micro Finance Limited. It was his job to collect the amount of loan installments. Copy of the appointment letter issued to the applicant has been collected. The duties and responsibilities mentioned therein speak about the acts which were required to be done by him. It can be definitely understood that there would be a system that would have been generated by the company for recovery of the loan installments. The record appears to be kept in Computer and the list of members from whom the applicant was supposed to collect the amount has been provided. Statements of those members who had given the amount in advance have also been recorded. Witness Nita Thorat, who is the president of one Bachat Gat by name "Prachi", has been recorded, which states that the present applicant had made representation to her that they would receive the amount of

Rs.1,00,000/- as loan within twelve days and they will have to pay amount of three installments immediately. Accordingly, they had given from the Bachat Gat, amount worth Rs.31,950/- to the applicant. But then the record shows that in the system amount of only one installment has been stated to have been entered as credited by those members through present applicant. Definitely, investigation requires to be done in this matter.

7. The applicant is relying upon his own rough account, but it cannot be taken into account at this stage. He will have to prove the same at the time of trial. As regards his alleged complaint filed on 7th July 2021 before Police Inspector, Harsul Police Station, it can be firstly seen that he has not taken up further steps after he could get that the police are not going to take any action. Secondly, even along with this application he has not produced any document to show that amount of Rs.50,000/-, 30,000/- and 70,000/- was given to Siddharth Alhat and informant on three different dates. Under such circumstance, the physical custody of the applicant would be necessary and therefore, this is not a fit case wherein extra ordinary powers of this Court can be exercised to grant pre-arrest bail to the applicant.

8. The Application stands rejected. The interim protection granted earlier, comes to an end with the rejection of the Application.

[SMT. VIBHA KANKANWADI , J.]

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