IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.785 OF 2022

Abhishek Deepak Nandurkar and Another ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr. J.S. Patil i/b. Mr. V.V. Purwant, for the Applicants.
Mr. Y.Y. Dabake, APP, for the State.
Mr. N.D. Rathod, PSI, Jail Road police station, Solapur City present.

CORAM : N. J. JAMADAR, J.
DATE : JUNE 13, 2022

P.C.:

1. Heard the learned counsel for the applicants and the learned APP for the State.

2. The applicants have preferred this application for pre arrest bail in connection with C.R. No. 95 of 2022 registered with Jail Road Police station, Solapur for the offences punishable under sections 417 and 420 read with 34 of Indian Penal Code, 1860.

3. Mr. Sitaram Koli (first informant), the Manager of State Bank of India, Market Yard, Solapur lodged a report with Jail Road police station with the allegations that Mr. Vishal Hadimani, the co-accused, had availed housing loan from SBI to purchase a flat, bearing No. 9, P.P.Scheme No. 1, City Survey No. 10389/A/9, Flat No. 35/1, Raghvendra Plaza, Solapur and mortgaged the same to secure the loan, in the year 2015. The co-accused regularly paid the

installments till May, 2018. As the co-accused committed default in payment of monthly installments, documents were verified so as to initiate necessary action against the borrower. It transpired that without prior permission of the bank, the co-accused had executed a conveyance deed of the said flat in favour of the applicant on 7th May, 2018. It was thus alleged that the said flat was transferred by practicing fraud on the bank. The applicants, in turn, transferred the said flat to one Sarika Jojare by executing a conveyance, on 28th February, 2020. Hence, the report.

4. By an order dated 24th March, 2022 this Court was persuaded to grant interim protection.

5. It was noted that the grievance of the bank was against the co-accused Vishal and the applicants claimed to be bonafide purchasers for value.

6. Mr. Dabake, learned APP, made an endevour to demonstrate that the applicants have not placed any material on record to show that they are bonafide purchasers for value. Emphasis was laid on the fact that the applicants had not published a public notice in the news papers, inviting the objections to the then proposed transaction between the co-accused Vishal and the applicants. Therefore, the applicants cannot be said to be bonafide purchasers for value.

7. From the perusal of the allegations, it becomes evidently clear that the bank initiated action against the co-accused Vishal only when the later committed default in payment of the monthly installments. For the mere fact that the public notice, inviting the objections to the title of the vendor, was not given, an inference of complicity in the offence of cheating cannot be drawn. Even otherwise, the offence revolves around documents and the custodial interrogation of the applicants does not seem warranted.

8. I am, therefore, persuaded to confirm the order of interim protection. Hence, the following order.

ORDER

1] The order of interim protection passed by this Court on 24th March, 2022 is made absolute on the same terms and conditions.

2] In addition, the applicants shall regularly attend the proceeding before the learned Magistrate.

3] Application disposed.

(N. J. JAMADAR, J.)