IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 870 OF 2022

Rohan Balasaheb Waghmare ..Applicant
V/s.
The State of Maharashtra ..Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 871 OF 2022

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V/s.
The State of Maharashtra ..Respondent

Dr. Uday Warunjikar for the Applicant.
Mr. N.B. Patil, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

RESERVED ON : 4 APRIL 2022
PRONOUNCED ON : 11 APRIL 2022

P.C.

1. Both these applications can be conveniently disposed of by this common order.

2. In ABA No. 871 of 2022, the Applicant, apprehending arrest, in Crime No. 81 of 2022 of Police Station Shahupuri, District Satara under Section 406 and 420 of IPC is seeking anticipatory bail.

3. The said crime is registered on the basis of the complaint dated 09.03.2022 lodged by Vivekkumar Sinha, who is working as Assistant General Manager, State Bank of India (SBI), MIDC Branch at Satara.

4. According to the informant, on 23.03.2015 an overdraft of Rs.1,75,00,000/- was sanctioned to *W.R.Developers* of the Applicant, for which the Applicant had mortgaged four shops on the ground floor bearing Nos. SG1, SG2, SG3 and SG4 and two shops on the stilt floor bearing Nos. SF1 and SF4 from a building known as *Rohan Heights* standing on CT Survey No. 407/01 at Mangalvar Peth, Satara. The mortgage deed was accordingly registered on 24.03.2015 and the aforesaid amount of the overdraft was transferred in the account of the Applicant on 26.03.2015. Subsequently, on 21.12.2015 a further amount of Rs.30,00,000/- was sanctioned by way of overdraft to the Applicant, for which the Applicant has mortgaged a flat on the first floor bearing No. S6 and two flats on the third floor bearing Nos. T3 and T4 in favour of the Bank in respect of which the mortgage deed was registered on 16.11.2015. According to the informant, the Applicant paid the Equated Monthly Installments (EMIs) for some time, after which there was a default. Consequently, the loan was classified as a Non-Performing Asset (NPA). A notice was issued to the Applicant for regularisation of the account, after which the Applicant again paid certain EMIs

followed by another default. Now, the loan account has been transferred to Stressed Assets Resolution Branch on 14.03.2022. The Bank had initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') for attachment of the mortgaged property. When a visit was made in November 2019 to the said property, it was revealed that Applicant has sold the said property to the third parties. It was also noticed that the shops on the stilt floor (SF1 and SF4) were converted into flats. The flat Nos. T3 and T4 were renumbered as TF3 and TF4, without the permission from the Bank. It is in these circumstances that the complaint came to be filed, on the basis of which the offence is registered which is under investigation.

5. In ABA No. 870 of 2022, the Applicant apprehending arrest in Crime No. 84 of 2022 under Section 179, 186, 225, 332, 353 read with Section 34 of IPC registered with Shahupuri Police Station, Satara, is seeking anticipatory bail.

6. This crime is a sequel to the earlier offence. The crime is registered on the basis of the complaint dated 10.03.2022 lodged by PSI Bashir Sardar Mulla attached to Police Station Shahupuri. He states that on 09.03.2022, when the Applicant was called to Mangalvarpeth Police Station for investigation of Crime No. 81 of 2022, the Applicant created ruckus in the Police Station at

about 16.45 hrs and in order to evade arrest, managed to flee in a car bearing No. MH-11-CS-0070 driven by one Ranjeet Bhosale. According to the informant, one other co-accused Vinod Vilas Dere, who was present, also helped and facilitated the Applicant to flee and to evade arrest. He claims that while the Applicant was fleeing in the car, the car had dashed on his legs. Thus, it is claimed that the Applicant in order to evade the arrest has committed the said offence under Section 353 and other section as invoked.

7. I have heard the learned counsel for the parties. Perused record.

8. It is not disputed that the Applicant has obtained the overdraft from SBI, which has become overdue and is classified as NPA. It transpired during the course of hearing that an amount to the tune of Rs.1,26,00,000/- is outstanding in the said account. It is also not disputed that the property has been sold in favour of the third parties. The only contention on behalf of the Applicant is that consequent to a change of building plan, the location of the proposed shops and flats changed and this has resulted into the transfer of the certain portion of the property in favour of the third party, which is not subject matter of the mortgage. The learned counsel for the Applicant submitted that Applicant had no intention to cheat or to evade the payment of the loan amount

and the bank was informed to get the description of the property corrected.

9. The learned APP submitted that without obtaining permission from the Bank, the Applicant has transferred the mortgaged property and in the subsequent FIR even has prevented public servant from performing his duty.

10. I have considered the circumstances and the submissions made. As noticed earlier, the availing of the loan/mortgage of the aforesaid property and even the fact that they have been transferred in favour of the third parties is not disputed. It is also not disputed that no prior permission from the Bank was obtained. The contention based on the change of plans to my mind cannot prima facie be accepted, as no such change of sanctioned plan has been produced on record. That apart even such a change which would have an effect on description of the mortgaged property and the consequent enforceability of the mortgage deed could not have been effected without permission of the Bank. The subsequent incident also shows that the possibility of misuse of liberty, if granted, cannot be ruled out. The offence involves public money of the Bank. I find that the custodial interrogation of the Applicant is necessary for proper investigation of the matter. No case for grant of anticipatory bail is made out.

11. Both the criminal applications stand rejected.

12. It is made clear that observations herein are for the limited purpose of deciding the applications for anticipatory bail and the learned Sessions Court shall not be influenced by the same at any subsequent stage of consideration of applications for regular bail, if any.

(C.V. BHADANG, J.)