IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 323 OF 2022

Ravindra Bhausaheb Madhwai ..Applicant
V/s.
The State of Maharashtra ..Respondent

Mr. Rameshwar Gite for the Applicant.
Mr. Y.Y.Dabke, APP for the Respondent/State.
API Uma Gawali, EOW Nashik city present.

CORAM : C.V. BHADANG, J.

DATE : 9 FEBRUARY 2022
(Through Video Conferencing)

P.C.

1. The Applicant, apprehending his arrest, in connection with the investigation of Crime No. 158 of 2021 registered with Adgaon Police Station, Dist. Nashik under Section 420, 409, 468 read with Section 34 of I.P.C. is seeking pre-arrest bail.

2. The aforesaid offence is registered on the basis of a complaint lodged by Sanjay Lolage, Accountant Class-I, Co-operative Societies, Nashik alleging irregularities and misappropriation of an amount of Rs.2,76,01,040/- in Durga

Uban Credit Co-operative Society Limited ('the credit society' for short) for the period from 01.04.2013 to 31.03.2015.

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

4. The allegation insofar as the present Applicant is concerned, is that Applicant along with his uncle Balasaheb Madhwai and his wife Smita Madhwai are the borrowers from the credit society of a loan of Rs.5,00,000/-, for which the property bearing Gat No. 590/7/1 bearing plot No. 130 was mortgaged to the credit society. The allegation is that without the loan amount being repaid, the Applicant along with Balasaheb Madhwai and Smita Madhwai managed to obtain a Release Deed of the property on 04.01.2013 and subsequently, the property has been sold to the third party.

5. Mr. Gite, the learned counsel for the Applicant strenuously urged that at the relevant time, the Applicant was a college going boy with no source of income. It is submitted that there is *inter se* dispute between the Applicant on one hand and his uncle Balasaheb and Smita Madhwai on the other. It is submitted that Applicant has no role to play in the matter. It is submitted that custodial interrogation of the Applicant is not necessary.

6. The learned APP has pointed out that there is no material produced to show that the loan amount along with interest has been repaid. On the contrary, the learned APP has pointed out that the copies of certain cheques which were drawn in favour of the Applicant issued by the Manager and the Vice-Chairman of the credit society, which amount is shown to be withdrawn by the Applicant. The learned APP on instructions from the Investigating Officer states that the said amount is to the tune of Rs.30,00,000/-. The learned APP pointed out the relevant paragraph of the order passed by the learned Sessions Judge, when at that stage of the investigation, the amount was found to be Rs.20,00,000/-. He, therefore, submitted that the custodial interrogation of the Applicant is necessary.

7. I have carefully considered the rival circumstances and the submissions made. Prima facie, it appears that the Applicant along with his uncle and aunt were joint borrowers from the credit society for which a certain landed property situated at village Adgaon was mortgaged. A Release Deed from the credit society was obtained on 04.01.2013 without repayment of the loan amount. Prima facie, there are cheques which are shown to be issued by the credit society in favour of the Applicant which are much in excess of Rs.5,00,000/-. The total misappropriation in the credit society is in excess of Rs.2 crores. The applications filed by the Chairman, Vice-Chairman and other members of the

society, have been dealt with by this Court and those applications were rejected. In my considered view, the proper investigation of the matter is paramount at this stage for which the custodial interrogation of the Applicant would be necessary. It is not disputed that the Applicant had attained majority at the time of the loan transaction.

8. Considering the overall circumstances, the Criminal application is rejected.

9. At the request of the learned counsel for the Applicant, the interim protection operating in favour of the Applicant is continued for a period of two weeks.

(C.V. BHADANG, J.)