IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.386 OF 2022

Balraj Jaya Shetty .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH
CRIMINAL INTERIM APPLICATION NO.543 OF 2022
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.386 OF 2022

Shiv Govinda Sahu … Applicant

<u>In the matter between</u>
Balraj Jaya Shetty .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Chetan Alai, for the Applicant.
Ms. Devki Sahu i/b. Jyoti Sahu, for the Intervenor.
Smt. Rutuja Ambekar, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 17th FEBRUARY, 2022

P.C. :

1. The Applicant is seeking anticipatory bail in connection with CR No.283 of 2021 registered at Khadakpada Police Station dated 13th September, 2021 under Sections 420, 406, 506(2) of the Indian Penal Code.

2. Heard Mr. Chetan Alai, learned counsel for the Applicant and Ms. Devki Sahu, learned counsel for the Intervenor, and Smt. Rutuja Ambekar, learned APP for the Respondent -State.

3. The FIR was lodged by one Shivshankar Govinda Sahu. He has stated that he was working as a Consultant before 2018. He came in contact with the Applicant. He was in real Estate business. In the year 2018, the Applicant told the Informant that there was a land available at Murbad for sale. The Applicant induced the Informant that, in partnership, both of them could purchase that land in order to develop it, and could construct the bungalows and sale them for profit. The Applicant further induced the Informant to give up his job and to enter into the construction business. The informant had shown his interest with this inducement and decided to join the Applicant's business. The Applicant had taken the informant to show the land Gut No.118 and 121 at Tiwarpad, Balegaon, Tauka Murbad. At that time the Informant asked the Applicant about the total expenditure involved in the transaction. The Informant was told by the Applicant that he had money but the Informant should get

Rs.50,00,000/- and for that the Informant should apply for loan. Based on the suggestion, the Informant took loan from HDFC Bank and YES Bank. The Applicant received Rs.24.40 Lakhs from HDFC Bank and Rs.21.35 Lakhs from the YES Bank in December 2018. On 21st December, 2018, the Applicant and the Informant had entered into the partnership deed which was executed on stamp paper. Thereafter, the Informant paid various amounts in cash to the Applicant from time to time. The Informant's case is that he paid Rs.30,01,000/-. On 7th January, 2019, the Applicant told the Informant that the said land was agricultural land and NA permission was not granted. For that they were required to give a certificate showing that they were agriculturalist. The Informant did not have any such permission and as such, he was not able to produce any such document. Then the Applicant suggested to the Informant that the land could be transferred in the Applicant's name. The Informant agreed to that proposal. On 10th January, 2019, the transaction was registered. It was registered in the name of Applicant for Rs.9,00,000/-. The Informant signed the said document as a witness. After that no development work was carried out and no money was given back to the Informant. The Informant was saddled in respect of paying around Rs.80,000/- per month as installment for loan. The informant was continuously asking for this money from the Applicant but the Applicant only paid Rs.1,46,000/- to the Informant and the balance amount was not given. The interest went on mounting and finally the Informant lodged the FIR.

4. Learned counsel for the Applicant submitted that it is a civil dispute between the partners. There were no acts of cheating or the misappropriation of money involved. He submitted that the parties can be referred to Arbitrator. He further submitted that because of lock down development could not take place.

5. Learned counsel for the Intervenor vehemently opposed this Application. She insisted that the balance amount has gone above 35 lakhs. The informant is at present in extreme hardship. The Informant has to pay the installment to the banks which are not ready to accept any excuse of lock down. It is also pointed out that it is very clear that the land was transferred in the name of the Applicant alone and no further work was carried out. Thus, the offence of cheating is made out. Learned APP also opposed the Application and adopted the

submissions of the learned counsel for the Intervenor.

6. I have considered these submissions. At this stage, there is no reason to doubt the contents of the FIR. The FIR is very specific. The Informant had given more than Rs.30 lakhs to the Applicant. It is the fact that no land was transferred in the Informant's name. No construction work had actually started. The Applicant had taken loan on which he has to pay installments alongwith interest. This was all done at the behest of the Applicant who himself was the beneficiary of the transaction and no land was transferred in the Informant's name. Therefore, the offence is clearly made out. The Applicant's custodial interrogation is necessary to find out the exact nature of the transaction and the monetary loss caused to the Informant. No case for grant of anticipatory bail is made out.

7. The Application is accordingly rejected. In view of the rejection of the Application, Interim Application disposed of.

(SARANG V. KOTWAL, J.)