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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.198 OF 2020

Shakti Nilkanth Kubal and anr. .. Applicants
vs.

The State of Maharashtra .. Respondent

**WITH
INTERIM APPLICATION NO.522 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO.198 OF 2020**

**WITH
INTERIM APPLICATION NO.1177 OF 2021
IN
INTERIM APPLICATION NO.522 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO.198 OF 2020**

SVC Co-operative Bank Ltd. .. Applicant

IN THE MATTER BETWEEN

Shakti Nilkanth Kubal and anr. .. Applicants
vs.

The State of Maharashtra .. Respondent

Mr. Sanjeev Kadam a/w Mr. Rushikesh Kale i/b Mr. Prashant P. Raul, for the applicant in ABA/198/2020.
Mr. Ganesh K. Sovani, for the applicant in IA/522/2020 & IA/1177/2021.
Mr. Sunil Shinde, PI, Shrinagar Police Station, Thane.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 15, 2022

P.C. :

1. Heard learned Counsel for the applicants and learned APP. The applicants have filed this application for grant of pre-arrest bail in connection with C.R. No. I-228/2019 registered with Shrinagar Police Station, Thane for the offences punishable under sections 109, 408 read with section 34 of Indian Penal Code, 1860 and under sections 43(a), 43(b) and 66 of the Information and Technology Act, 2000. On 24/01/2020, this Court while granting interim protection to the applicants passed the following order.

"1. Complainant seeks intervention. He may file appropriate application within seven days from today. Stand over to 12th February, 2020.

2. In the meantime, in the event of arrest of the applicant in C.R. No. 228/2019 registered with Shri Nagar Police Station, Thane on furnishing P.R. Bond of Rs.25,000/- each (Rs.Twenty Five Thousand only) with one or two sureties in the like sum.

3. The applicants shall attend the concerned Police Station as and when called.

4. The applicants shall furnish the particulars of their place of residence and contact details to the Investigating Officer of the Police Station concerned within seven days from today;

5. The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. The complainant is directed to place on record, reports submitted by Guru Kaushik, Assistant General Manager, (Technical) on/or before the next date."

2. When this application came up for consideration, learned APP on instructions of the Investigating Officer who is present in the Court submitted that upon investigation the charge-sheet has already been filed before the trial Court and that the custody of the applicants is not required.

3. An intervention application has been filed on behalf of the SVC Co-operative Bank Ltd. opposing the application. Learned Counsel for the intervener was at pains to point out that there are several infirmities in the investigation. He further submits that this is a very serious case of data theft. Learned Counsel submitted that as a result of the data theft committed by the applicants, the Bank had to suffer loss of almost Rs. 29 crores. He submits that detailed reports have been submitted by the internal enquiry committee appointed by the Bank which would reveal the role of the applicants and manner in which they have committed the data theft. According to him, all these materials ought to have been taken into consideration by the Investigating Officer before filing the charge-sheet. He submits that the charge-sheet has been hurriedly filed. According to him, this is the matter where thorough investigation is required and it is necessary for the Investigating Officer to obtain the custody of the applicants considering the serious nature of the offences with which the applicants are charged with. He invited my attention to the various documents annexed to the compilation tendered on behalf of the interveners to buttress his submission that the investigation is defective.

4. In this application filed on behalf of the applicants for pre-arrest bail, it is not possible for this Court to consider the objections regarding defective investigation raised by the intervener. It is for the intervener to approach the appropriate forum for seeking redressal if at all it is the interveners' concern that there are material infirmities in the investigation. I am not expressing any opinion in these proceedings on the submissions made by the intervener as regards the infirmities in the investigation. Suffice it to note that, as learned APP on instructions has submitted that the charge-sheet has already been filed and that the custody of the applicants is not necessary, therefore, I am inclined to confirm the interim protection granted by this Court on 24/01/2020.

5. Needless to mention that it is open for the intervener to approach the competent Court/forum if all it is not satisfied with the investigation.

Hence, the following order.

ORDER

i) The interim protection granted by this Court on 24/01/2020 stands confirmed.

(ii) In the event of arrest of the applicants in C.R. No. 228 of 2019 registered with Shri Nagar Police Station, Thane, they be released on bail on furnishing P.R. Bond of Rs.25,000/- each with one or two sureties in the like amount;

iii) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. Anticipatory Bail Application is disposed of. In view of disposal of the Anticipatory Bail Application, Interim Applications also stand disposed of.

(M. S. KARNIK, J.)