IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.810 OF 2022

Pravin Baburao Shinde ...Applicant
Vs.
The State of Maharashtra ... Respondent

Mr.A.M. Saraogi a/w Mr.S.K. Singh i/b Mr.D.P. Singh for the Applicant.
Mr.R.M. Pethe, APP for the Respondent-State.
Mr.Jitendra Suresh Girnar, PSI, Wakad Police Station.

CORAM : C.V. BHADANG, J.

DATE : 30 MARCH 2022

P.C.

. The Applicant, apprehending arrest, in connection with the investigation of Crime No.47 of 2022 registered with Wakad Police Station, under Section 406, 420, 465, 471 read with Section 34 Indian Penal Code is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint dated 18 January 2022 lodged by Nikita Girish Raut, who is Manager of South Indian Bank, Branch at Nigdi, Pune.

3. According to the prosecution a loan of Rs.68 lakhs was sanctioned to Mr.Vishnu Gughe and his wife Priya Gughe for

purchase of a flat from Anushka Potdar and Ashish Potdar. The Applicant happens to be a Tax Consultant and was handling the affairs of Mr.Gughe. The Application for loan to the bank prepared and processed by the present Applicant after which it was forwarded to the concerned bank. Mr.Gughe and his wife entered into an agreement with the flat owners for purchase of the said flat on 12 October 2017. The loan came to be disbursed on 19 February 2018. Within two days thereof i.e. on 21 February 2018 an amount of Rs.30 lakhs was transferred from the account of Mr.Gughe to the account of the present Applicant. The Applicant claims that the said amount was obtained as a loan from Mr.Gughe and he has paid an amount of Rs.27 lakhs over a period of time and presently Rs.3 lakhs is the balance which is payable to Mr.Gughe,

4. The gravamen of the allegations in the complaint are that the Adhar Card and Pan Card of the borrowers was found to be fake.

5. I have heard the learned counsel for the parties. Perused record. It is submitted by the learned counsel for the Applicant that the Applicant had only prepared the loan Application on behalf of Mr.Gughe as his Tax Consultant. He submitted that the Applicant forwarded, whatever documents including Pan/Adhar Card as furnished by Mr.Gughe and had no

reason to doubt the genuineness thereof. In short, except preparing the said loan Application on the say of Mr.Gughe, in the capacity as a Tax Consultant, the Applicant has no other complicity. Insofar as the amount of Rs.30 lakhs which had been admittedly transferred to the account of the Applicanat is concerned, the contention is that subsequently Rs.27 Lakhs is returned.

6. The learned Additional Public Prosecutor pointed out that the investigation is in process and there are allegations about the Applicant acting in connivance with the borrowers furnishing forged documents in the bank in order to enable the borrowers to obtain a loan of Rs.68 Lakhs. It is submitted that within two days of the amount being disbursed in the account of Mr.Gughe, Rs.30 Lakhs was transferred to the account of the present Applicant for which no explanation is forthcoming, except that it was obtained as a loan, part of which is already returned.

7. The learned Additional Public Prosecutor pointed out that there are similar offences registered against the Applicant being Crime No.143 of 2022 involving an amount of Rs.3,13,60,000/- and in respect of Karnataka Bank, Pimpari Branch, a similar matter involving an amount of Rs.2,80,00,000/-.

8. I have considered the circumstances and the submissions made. *Prima facie* it can be seen that the Applicant being a Tax Consultant of Mr.Gughe would not know about the genuineness of the documents such as Adhar/Pan Card of Mr.Gughe. It is necessary to note that the Applicant is not disputing that he had prepared and processed the Application on behalf of Mr.Gughe for obtaining the loan. It is also a matter of record that a substantial amount of Rs.30 Lakhs from out of the loan amount, was transferred to the account of the present Applicant within two days from the disbursal of the loan.

9. It is submitted by the learned counsel for the Applicant that this was on account of the fact that the agreement for purchase of the flat between Mr.Potdar and Mr.Ghuge fizzled out. However, the Cancellation Deed is dated 7 April 2018 and much prior there to, the amount of Rs.30 lakhs is shown to be transferred to the account of the Applicant on 21 February 2018. Thus the contention *prima facie* cannot be accepted.

10. According to the prosecution there are similar offences registered against the Applicant, although said aspect is disputed by the learned counsel for the Applicant. This is not a stage to examine the allegations in details as the investigation is still in progress the paramount consideration, at this stage that there is proper investigation of the matter, for which I find

custodial interrogation of the Applicant is necessary. It is well settled that the custodial interrogation is more elicitation oriented than questioning a suspect having protection of pre arrest bail as held by the Supreme Court in the case of ***State Rep. By The CBI V/s. Anil Sharma***[1]. No case for grant of bail is made out. The Criminal Application stands rejected.

11. It is made clear that the observations made herein are only for deciding the application for anticipatory bail. The learned Sessions Judge shall not be influenced by the same at any subsequent stage, of consideration of an application for regular bail, if any.

C.V. BHADANG, J.

1 **(1997) 7 Supreme Court Cases 187**