Diksha Rane

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3004 OF 2022

ROHAN RAJARAM GADEKAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Sunny A. Waskar a/w. Adv. Harshada Morey, Adv. Shamish Marwadi, Adv. Bhavika Patil for the applicant.
Mr. S. V. Gavand, APP for the State.
Adv. Akhlak Khan a/w. Adv. Sanjay Dubey, Adv. Shyam Upadhyay for the respondent no.2/intervener.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 22, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for pre-arrest bail in respect of C.R.No.0956/2022 registered with the Samata Nagar Police Station for the offence punishable under Sections 406, 420, 464, 465, 467 read with 34 of the Indian Penal Code, 1860 (hereafter ‘IPC’ for short) dated June 22, 2022.

3. The first informant/ complainant is one Nikhil Ambu Golane. The complainant’s father was the owner of the subject flat situated at Kandivali. It is alleged that a sum of Rs.10 lakhs was taken by his father from one Mr. Raghuvendra Poojary. The purported agreement on the basis of which loan was taken from the LIC is dated March 15, 2016. On record is an agreement for sale which is a registered document. It was in respect of sale of the flat. The informant's father agreed to sell the flat to the applicant-Rohan. The agreed consideration was Rs.90 lakhs. Rohan i.e. the applicant applied for a loan to Axis Bank. Axis Bank sanctioned a loan of Rs.72 lakhs on the strength of the agreement for sale. It is alleged that the said amount of Rs.72 lakhs were never paid to the complainant's father. Even the sum of Rs.18 lakhs which was to be paid by way of the cheques, details whereof though set out in the said agreement, were never handed over to the informant's father. It is alleged that the applicant opened an account with the Axis Bank, Mulund, Mumbai, in the name of his father surreptitiously. The applicant while opening such account, provided the details of his own mobile number. The loan amount was deposited in this fictitious account opened in the name of the complainant's father. The monies were siphoned of by paying the amounts to different persons who in turn handed over the same in cash to the applicant. There is material collected during the investigation on record to indicate that cash was paid to the applicant after the same was siphoned of from the fictitious account of the informant's father.

4. Though the agreement for sale is of 2016, with a huge loan of Rs.72 lakhs sanctioned in the name of the applicant, surprisingly no proceedings have been filed for possession by the applicant though the loan was sanctioned and disbursed in the applicant's favour as far back as in 2017.

5. It is only when there was a default in loan payment and the proceedings were initiated under the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI), it is alleged that the complainant came to know that the applicant has cheated him.

6. The investigation is in progress. In my opinion, this is not a case for grant of pre-arrest bail considering the serious nature of the allegations and gravity of the offence which require thorough investigation. The application is rejected.

(M. S. KARNIK, J.)