IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4512 OF 2021

Balmukund Baburam Gupta .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr Kapil Dave, Advocate i/b. R.K. Jha & Asso. for the Applicant.
Ms. S.S. Kaushik, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.
DATE : 24th FEBRUARY, 2022

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No.74/2020 registered at Goregaon police station, Mumbai under Sections 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code. The applicant is in custody since August, 2021. The investigation is over and the charge-sheet is filed.

2. The prosecution case, as reflected in the FIR, was that one Sayeedminya Sayyed on 18.2.2021 lodged his FIR. He has stated that on 15.3.2019 he received a notice that he was sanctioned a loan of Rs.2 Lakhs on 9.8.2016 for purchasing a vehicle. The notice further mentioned that he did not pay the

installments and, therefore, the total amount pending was Rs.2,51,830/-. The informant was taken by surprise because he had never applied for any loan from Shri Sai Co-operative Credit Society Ltd.. He has further mentioned in the FIR that in 2016 he had gone to the said society with the present applicant and at that time the applicant had introduced him to the Chairman of the society Shri Virendra Rai. At that time the informant wanted to sell his vehicle and, therefore, he had given his Aadhaar Card, PAN card and photograph to the applicant. His case is that he had not applied for the loan in the society. He expressed suspicion against Virendra Rai and the applicant that they obtained loan in his name by misusing the documents and photographs given by him to the applicant. On this basis, the FIR is lodged.

3. The applicant was arrested as mentioned earlier in August, 2021.

4. Learned counsel for the applicant submitted that till today the handwriting expert's opinion is not available. Therefore, the prosecution does have concrete evidence to show that the informant had not applied for the loan. He invited my

attention to the register wherein the signatures of the persons collecting the cheques were mentioned. He submitted that many of the signatures on that register are similar and, therefore, it is obvious that someone else has taken away all those cheques and the cheque in the name of the informant which was a bearer cheque was used in encashing the amount of Rs.1,55,000/-. He further submitted that there are statements of the employees of the credit society which show that the informant himself had approached the society and had signed those documents.

5. Learned APP opposed this application and submitted that the forged documents are used in this case.

6. I have considered these submissions. As of today there is no handwriting expert's opinion to show that the application was not made by the informant himself for loan. In that context, the statement of one Naina Mindhe is important. She was working with said Credit Society as Manager at Goregaon (West). She has stated that the loans were sanctioned by Virendra Rai. She has categorically stated that the informant i.e. Sayeedminya Sayyed had come to the society. He was

accompanied by the applicant. Sayeedminya himself had signed the documents for loan.

7. It is not the case of the prosecution in the entire charge-sheet that there was any third person involved who had projected himself to be Sayeedminya. Naina has further stated that the file was sent to Virendra Rai for sanctioning the loan. He had sanctioned the loan. He had directed Naina to prepare a bearer cheque. On 9.8.2020 she handed over that cheque to the applicant and obtained acknowledgment signature on the register.

8. This statement of Naina is important in the context of the case particularly when it is not the investigating agency's case that some third person had accompanied the applicant for signing the documents. Even otherwise, the copy of the register showing issuance of cheque does have signatures which are very similar. That means one person could have collected all these cheques mentioned in that register. Therefore, there is a strong possibility that the applicant may not be involved in this offence at all. However, that would be a matter of trial.

9. At this stage, considering this doubtful piece of

evidence against the applicant and also taking into account the fact that the applicant is in custody since August, 2021, he deserves to be released on bail. Hence, the following order :

ORDER

(i) In connection with C.R.No.74/2020 registered with Goregaon police station, Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) Considering the nature of case against him, initially the applicant is permitted to furnish cash bail for the same amount. The Applicant will have to furnish the sureties, as directed, within three months from today.

(iii) The Application stands disposed of accordingly.

PRADIPKUMAR PRAKASHRAO DESHMANE Digitally signed by PRADIPKUMAR PRAKASHRAO DESHMANE Date: 2022.02.26 17:58:46 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)