

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (ABA) No.384/2022

Ravindra Yerne V State of Maharashtra thr PSO PS Wani, Yavatmal

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. A.S. Mardikar, Senior Advocate a/b Miss A. Kshirsagar, Advocate for applicant.

Mr. Apurva De, Advocate (Assist to Prosecution).

Mr. V.A. Thakare, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 19-07-2022

The applicant has approached to this Court by filing the present application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.0330/2021 registered with Police Station Wani, District Yavatmal for the offences punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code.

2. Heard the learned Counsel for the respective parties.

3. The learned APP, at the outset, raised an objection that this Court on 19-04-2022 rejected the first application of the present applicant for grant of pre-arrest bail by recording reasons. He points out that there are no change in circumstances after the rejection of the first application of the applicant. He, therefore, prays for rejection of the present application.

4. Mr. A.S. Mardikar, learned Senior Advocate, however, points out that there is some material which was not pointed out to this Court at the relevant time and if the said material was pointed out, the result could have been different. However, he fairly states that there are no change in circumstances, except for the above reason, the present application is moved.

5. To substantiate his submission that the successive application for grant of pre-arrest bail giving more details is maintainable, has placed reliance on the judgments of the Hon'ble Supreme Court of India in the case of *Babu Singh and others vs The State of U.P.*¹, *Rani Dudeja vs State of Haryana*² and the judgment of this Court in the case of *Joseph Paul vs Mrs. Shelly Dhall w/o Sanjesh*³ and the order dated 16-06-2022 passed in Criminal Application (ABA) No.251 of 2022 in the case of *Panjabrao Jangluji Patil vs State of Maharashtra, through P.S.O., P.S. Sadar, Nagpur*.

6. To consider the submissions of Mr. A.S. Mardikar, learned Senior Advocate, whether there is new material giving more details, which has any bearing to consider the prayer of the applicant for grant of bail, a fresh, I have revisited the documents filed along with the present application.

7. In this case, the allegations are that the applicant has mortgaged the agricultural land bearing Gat No.74, admeasuring

1 AIR 1978 SC 527.

2 (2017) 13 SCC 555.

3 2008 All MR (Cri) 1010.

2.28 HR to various banks and thereby defrauded the banks. The total amount involved is more than ₹ 1 Crore.

8. In the light of the allegations and the submissions of Mr. A.S. Mardikar, learned Senior Advocate, on perusal of the documents it is revealed that, the Mortgage Deed executed by the applicant in favour of the Ranganath Swami Nagari Sahakari Pat Sanstha Maryadit, Wani, is dated 11-03-2013. On the said date, the land Survey No.74 admeasuring 2.28 HR was an agricultural land. The Mortgage Deed in favour of the Ranganath Swami Nagari Sahakari Pat Sanstha shows that the complete land was mortgaged with the said Society.

9. Subsequent to the said mortgage with Ranganath Swami Nagari Sahakari Pat Sanstha, the applicant got the part of the said land converted as non agriculture (NA) on 08-08-2013 and by laying plots, group of plots were mortgaged to the Bank of Maharashtra, Yavatmal Urban Cooperative Bank and Shriram City Union Finance Ltd. Though, the group of plots mortgaged to Shriram City Union Finance Ltd., Yavatmal Urban Cooperative Bank and Bank of Maharashtra are different and there is no overlapping, however, the fact remained that prior to mortgage of group of plots to the above referred three financial institutions or before the part of the said land which was mortgaged to the above referred three financial institutions was converted into non agriculture land, the whole land was mortgaged with the Ranganath Swami Nagari Sahakari Pat Sanstha.

10. Thus, the above referred facts show that though the applicant was knowing that the whole land is mortgaged with the Ranganath Swami Nagari Sahakari Pat Sanstha, he converted the part of the said land into non agriculture land and subsequently by laying layouts, group of plots were mortgaged to different three financial institutions. Thus, prima facie, even from the documents now filed on record by the applicant, I do not find any merit in the submissions of Mr. A.S. Mardikar, learned Senior Advocate that if the above referred documents had been pointed out to this Court while deciding the first application of the applicant, the result would have been different.

11. Considering the documents filed by the applicant and the evidence collected by the Investigating Officer during the investigation, I am of the opinion that there is ample incriminating material available against the applicant. In that view of the matter and further in view of the fact that there are no change in circumstances after rejection of the first application, I pass the following order:-

ORDER

Application is rejected.

(Anil S. Kilor, J.)