

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

CRIMINAL APPLICATION (ABA) NO.566 OF 2022

Kunal S/o Subhashappa Bondre .Vs. State of Maharashtra, through P.S.O., P.S.
Chikhli, Dist. Buldhana

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S. Mardikar, Senior Advocate a/w Shri Digvijay Singh, Adv. for the applicant.

Shri S.A. Ashirgade, A.P.P. for the non-applicant/State.

Ms Radhika Bajaj, (Assist to Prosecution).

CORAM : ANIL S. KILOR, J.
DATED : 06/09/2022

1. The applicant is seeking pre-arrest bail in Crime No.578 of 2022, dated 05.07.2022, registered with Police Station Chikhli, District: Buldhana, for the offences punishable under Sections 120-B, 406, 420, 423, 465, 468 and 471 of the Indian Penal Code.

2. Shri A.S. Mardikar, learned Senior Advocate argues that the 7/12 extract of the land in question shows that Subhashappa Vishwambharappa Bondre is the owner of the land and it can be seen from the search report of the said property.

3. It is submitted that even the Bank Officers visited the land before sanctioning the loan in favour of the applicant.

4. It is pointed out that the loan of Rs.2,50,00,000/- was repaid on 09.04.2022 and the present crime was registered on 05.07.2022 at the behest of a person, who is the political opponent of the applicant. He, therefore, submits that the applicant has been falsely implicated in the alleged offence.

5. The learned Senior Advocate further argues that though there are allegations about the forged N.A. order, however, there is nothing to point out, who has forged the said N.A. order. He submits that the mortgage deed, search report, 7/12 extract, and the fact that, the loan was already repaid by the applicant, are sufficient to say that custodial interrogation of the applicant is not necessary. Accordingly, he prays for grant of pre-arrest bail.

6. On the other hand, Shri Ashirgade, learned APP strongly opposes the present application and submits that the applicant was knowing the fact that the said land was sold by the original owner long back and after creating layout, plots were sold out to the various persons who are residing on the said plots.

7. It is submitted that despite the said fact, the applicant mortgaged the said land with the Bank and obtained loan in Crores. He, accordingly, submits that

considering the seriousness of the offence, this Court may not grant bail to the applicant.

8. Ms Radhika Bajaj, learned counsel who is assisting the prosecution on behalf of the complainant submits that the applicant has defrauded 57 persons who are the owners of the respective plots of the layout, laid on the said land. She submits that the applicant is an influential person and he may pressurize the prosecution witnesses or tamper with the prosecution evidence if he is granted pre-arrest bail. Accordingly, she prays for rejection of the present application.

9. I have perused the Case Diary and the application.

10. From the case diary, it can be seen that the applicant and his father obtained loan by mortgaging the land in question with the Bank, firstly in the year 2013 and subsequently in the year 2017. The loan was repaid on 09.04.2022 and accordingly, "No Objection Certificate" was issued by the Bank on 10.05.2022, to that effect.

11. From the application and the documents filed along with it, it can be seen that the search report, which was called by the Bank for the purpose of grant of loan, categorically states that, the said property stands in the name

of the Subhashappa Vishwambharappa Bondre who was the guarantor. The search report also states about the possession of the Subhashappa Vishwambharappa Bondre, the original owner.

12. It appears that the Bank Officers visited the plots for inspection and on satisfaction of Bank Officers, the loan was sanctioned in favour of the applicant.

13. Further, the 7/12 extract does not show at any time the land was transferred in the name of vendor of the 57 plot owners who alleged to have constructed the houses on the said land.

14. Thus, from the 7/12 extract, the search report, visit of the Bank Officers to the land for verification, coupled with the fact that, the loan was repaid in the month of April, 2022, *prima facie* it is evident that there was no intention of the applicant to defraud anybody including the Bank.

15. The documents filed by the complainant along with his application for permission to assist the prosecution, show that the complainant belongs to a political party. It further appears that the applicant is also a member of political party. Thus, considering the date of repayment of

loan and the date of lodgment of the report, *prima facie* it appears that, the FIR is the outcome of the political rivalry.

16. As far as, the forgery of N.A. order is concerned, it would be a matter of trial and evidence, who has forged the said order. At present, there is no incriminating material available on record to indicate that the applicant is responsible for such forgery. In that view of the matter, I am of the opinion that custodial interrogation of the applicant is not necessary.

17. This Court while granting *ad-interim* anticipatory bail vide order dated 01.08.2022, directed the applicant to attend the concerned Police Station as and when his presence is required. Accordingly, the applicant was called on eight occasions by the Investigating Officer (IO). There is no complaint that the applicant has misused the liberty or he did not cooperate the IO. Furthermore, considering the status of the applicant, there is no possibility that the applicant is being absconded or not available for the trial. In the circumstances, I pass the following order:

- a) The criminal application is **allowed**.
- b) Order passed by this Court on 01.08.2022, granting *ad-interim* anticipatory bail, is confirmed with modification that the applicant

shall attend the concerned Police Station as and when his presence is required.

- c) Observation made in the present order, the Court should not get influenced by it, while deciding the trial.

The criminal application is **disposed of** accordingly.

[ANIL S. KILOR, J.]