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

CRIMINAL APPLICATION (ABA) NO.852 OF 2021

(Sachin s/o Suresh Chintawar Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Shri Firdos Mirza, Advocate for applicant
Shri V.A.Thakare, APP for non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATE : 07th MARCH, 2022.

1. On the complaint given by one Jivan Dashrath Tangadpalliwar that the accused persons approached the bank for the business loan of Rs. 75 Lack, they were asked to submit necessary documents including valuation report, search report and other documents. On statements of such documents, a loan of Rs. 75, Lakh was sanctioned. It is alleged that the accused Nos. 1 and 2 then approached the bank for Cash Credit Limit of Rs. 50 Lakh and on completion of the procedure, Cash Credit Limit of Rs. 25 Lakh was granted in favour of accused Nos. 1 and 2. Further, on default, an inquiry was made about the mortgaged property and thereupon it was revealed by the bank, there is no property in existence. Accordingly, crime No. 218/2021 registered with Police Station Saoli, District Chandrapur for the offences punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. The applicant is the Architect, who has issued a valuation report in this matter. Shri Mirza, learned counsel for the applicant submits that the valuation reports do not indicate that the valuation reports were submitted by the applicants at the request of the bank. The valuation reports were submitted to the accused Nos. 1 and 2 and the purpose is also specifically mentioned in the valuation report, which clearly depicts that the valuation report was issued for personal use. He, therefore, submits that, his role is very limited and to the extent of giving a valuation report on request of accused No.2.

3. Shri Mirza, learned counsel for the applicant has drawn attention of this Court to the allegation made in the FIR and submits that the accused No.2 is an instrumental and therefore, custody of the applicant is not necessary, in the present matter.

4. Shri V.A. Thakare, learned APP strongly opposed the application and submits that there is a statement of the bank officer who was categorically stated in his statement that he had made a phone call to the applicant and directed him to submit the valuation report. Therefore, it cannot be said that the valuation report submitted by the applicant was not for the purpose of the bank, but it was submitted to the accused no.2 on his request. He accordingly submits that his role is also important in this matter

and custody of the applicant is necessary to find out whether such incorrect valuation reports were earlier submitted by the applicant in other loan cases.

5. On perusal of the case diary and after going through the FIR and on perusal of the valuation report, *prima facie* there is nothing to indicate that it was issued for the purpose of mortgage. In that view of the matter, I am of the opinion that the *ad interim* anticipatory bail granted to the applicant vide order dated 14/12/2021 needs to be confirmed. Hence, I pass the following order.

i] The criminal application is allowed.

ii] The order dated 14/12/2021 is confirmed with a further modification that the applicant shall attend the concerned police station, whenever his presence is required.

JUDGE

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Signed By:RAJESH K NANDURKAR

Signing Date:08.03.2022 18:39