IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.318 OF 2023

Surekha Ravindra Marathe … APPLICANT

VERSUS

The State of Maharashtra & anr. … RESPONDENTS

…….

Mr. A.B. Girase, Advocate for applicant
Mr. A.S. Shinde, A.P.P. for respondents

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CORAM : R.G. AVACHAT, J.

DATE : 24th MARCH, 2023

PER COURT :

Heard. This is a successive bail application under Section 438 of the Code of Criminal Procedure of the applicant herein. The earlier one has been rejected in January 2022. The learned A.P.P. has, therefore, strong reservation to grant the relief to the applicant. According to him, there is no change in the circumstance. The applicant is a co-borrower along with her husband. The applicant borrowed a sum of Rs.25 Lakhs. As a security for the said loan, immovable property belonging to her husband (co-accused) was mortgaged. The allegations in the F.I.R. are that the applicant had given undertaking to the lender

Bank that the mortgaged property would not be subjected to any kind of third party interest. In spite of the said undertaking, the mortgaged property has been sold. It is informed by the learned A.P.P. that, some of the bond papers used for execution of mortgage/s in favour of the Bank were purchased in the name of the applicant herein. According to him, the applicant should come around to deposit at least some of the amount. It is an economic offence. He, therefore, urged for rejection of the application.

2. Considered the submissions advanced. The applicant is a lady. Her earlier application was rejected about 15 months before. The charge sheet has been filed in January 2023. This is the change in circumstance for the applicant to move again for anticipatory bail. All the properties which are mortgaged as security for the loan obtained by the applicant and her husband belonged to the husband alone. It is he who has sold out all those properties. True, the applicant must have been in the know thereof and even has a facit consent to all deeds committed by her husband. It is not known as to whether the Bank has moved the Debts Recovery Tribunal for recovery of the loan amount. Needless to mention, the Bank has first claim on the mortgaged properties which have been

sold by the applicant's husband.

3. Since the applicant is a lady, the charge sheet has been filed, the property sold belonged to her husband, the Court is inclined to grant her protection. Hence, the application is allowed. The order dated 10/3/2023, granting ad-interim anticipatory bail to the applicant is made absolute.

4. The applicant shall not tamper with the prosecution evidence and shall appear before the investigating officer as and when required for the investigating purpose.

(R.G. AVACHAT, J.)

fmp/-