

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.821 OF 2023
WITH ABA/788/2023**

**SHARAD LAXMANRAO CHIDRAWAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. V. D. Sapkal, Senior Advocate i/b Mr. S. R. Sapkal, Advocate for the applicants
Mr. S. N. Morampalle, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 10th JULY, 2023

P.C. :-

1. Applicants apprehend arrest in connection with Crime No. 39 of 2021 registered with Jintur Police Station, Tal. Jintur, Dist. Parbhani for the offences punishable under Sections 39 and 42 of The Maharashtra Money Lending (Regulation) Act 2014 (for short 'Act').

2. Assistant Registrar of the Competent Authority under the said Act lodged complaint against Ramesh with the allegations that he is conducting business of money lending transaction without license. It is on the basis of this report offence came to be registered against said Ramesh. Present applicants apprehend arrest on the basis of alleged statement of co-accused Ramesh.

3. Learned counsel for the applicants states that there is bar created by Section 16 of the Act of taking cognizance of the complaint in respect of the offences under this Act except on the complaint made by the Competent Authority as provided therein. It is submitted that in the present case the offence has been registered against Ramesh and not against present applicant and hence applicants cannot be made accused in this case. It is further submitted that as far as applicant Gautam is concerned there is dispute between this applicant and accused Ramesh which can be ascertained from notice issued by the applicant to him for the offence punishable under Section 138 of the Negotiable Instruments Act, which is issued in January, 2021 i.e. much prior to registration of this crime. As far as applicant Sharad is concerned it is contended that there is absolutely no evidence on record to show his involvement even in the activities of accused Ramesh.

4. Learned APP opposed the application by contending that it is right of the Investigating Agency to conduct inquiry into the offence even against the accused Ramesh and for that purpose the present applicants would be called for interrogation.

5. There is no dispute made about the fact that no complaint has been lodged by the Competent Authority against present applicants

in order to any Competent Authority to take cognizance thereof. Perusal of the the provisions of Section 16 of the Act clearly shows that except for the complaint of authorized officer, no cognizance can be taken off any offence under this Act. Admittedly, the authorized officer has not lodged any complaint against the present applicants. Apparently they cannot be arrayed as an accused in the present case. As far as the requirement of the investigation in to the crime is concerned appropriate direction can be given to the applicants to appear before the Investigating Officer as and when called with written intimation. Learned counsel for the applicants states that on receipt of such intimation they will cooperate further investigation. Hence applications stand allowed in terms of interim order dated 24th May, 2023 with modification that applicants to appear before the Investigating Officer on receipt of written intimation.

(R. M. JOSHI, J.)

ssp