IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1043 OF 2023

Sunita w/o Machindra Shinde … APPLICANT

VERSUS

The State of Maharashtra
Through Shrigonda Police Station
Dist. Ahmednagar. … RESPONDENT

Mr. N. S. Ghanekar, Advocate for the applicant
Mr. V. S. Badakh, APP for the respondent/State
Mr. S. S. Panale, Advocate for the informant

WITH

ANTICIPATORY BAIL APPLICATION NO. 1015 OF 2023

Dinesh s/o Vijay Bihani … APPLICANT
(Orig. Accused)

VERSUS

1. The Superintendent of Police,
Ahmednagar

2. The Police Inspector,
Shrigonda Police Station
Tq. Shrigonda, Dist. Ahmednagar. … RESPONDENTS

Mr. R. R. Karpe, Advocate for the applicant
Mr. V. S. Badakh, APP for the respondent/State
Mr. S. S. Panale, Advocate for the informant

WITH

ANTICIPATORY BAIL APPLICATION NO. 967 OF 2023

Murlidhar s/o Dattatraya Pawar … APPLICANT
(Orig. Accused)

VERSUS

1. The State of Maharashtra
Through Its Investigation Officer,
Shrigonda Police Station
Tq. Shrigonda, Dist. Ahmednagar.

2. The Superintendent of Police,
Ahmednagar ... RESPONDENTS

Mr. N. B. Narwade, Advocate for the applicant
Mr. V. S. Badakh, APP for the respondent/State
Mr. S. S. Panale, Advocate for the informant

WITH

ANTICIPATORY BAIL APPLICATION NO. 1028 OF 2023

Sachin s/o Dattatraya Pawar ... APPLICANT
(Orig. Accused)

VERSUS

1. The Superintendent of Police,
Ahmednagar

2. The Police Inspector,
Shrigonda Police Station
Tq. Shrigonda, Dist. Ahmednagar. ... RESPONDENTS

Mr. R. R. Karpe, Advocate for the applicant
Mr. V. S. Badakh, APP for the respondent/State
Mr. S. S. Panale, Advocate for the informant

CORAM : R. M. JOSHI, J.
DATE : 11th SEPTEMBER, 2023.

P.C. :-

1. These applicants apprehend arrest in connection with Crime No. 535 of 2023 registered with Shrigonda Police Station, Tal. Shrigonda, Dist. Ahmednagar for the offences punishable under

Sections 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code (for short 'IPC').

2. The informant Sagar Lokhande reported to the police that in the year 2011 Machindra Shinde, husband of the applicant in ABA No. 1043/2023 had obtained his identity card, ration card, photograph etc. for the purpose of obtaining loan for which the informant was to stand as guarantor. At the relevant time since there was no pan card and 7x12 extract with informant, the concerned bank has refused to accept him as guarantor. The said documents were called from time to time from him by the informant but not returned. In the year 2018 when he approached to HDB Finance Company for obtaining loan to purchase TATA Company Hyva vehicle, it was told to him there is loan pending against him. He, therefore, approached to Shriram Transport Company informing the company that he never obtained any loan. It is alleged that by using those documents loan was obtained in the name of applicant Sunita Machindra Shinde. He further made allegations against the officers of Shriram Transport Finance that in collusion with the said applicant bogus loan proposal was created and he being falsely shown as he guarantor in respect of the loan obtained by her. The informant has also made allegations against the arbitrator stating that without there being any documents before him, bogus award

was passed.

3. Applicant Sunita is wife of Machindra Shinde against whom it is alleged that the informant had given his documents to him which were subsequently misused. Sunita said to have obtained loan wherein the informant was shown as guarantor by misusing his documents. Other applicants are the officers of Shriram Finance Company and arbitrator who passed award against the informant.

4. Learned counsel for Sunita submitted that though there is no specific allegation made against this applicant that she misused the documents and it is never claimed by the informant that those documents were handed over to her. It is submitted that if it was within the knowledge of the informant in the year 2018-2019 that some loan shown in his name, there is does not stand any reason as to why not a single communication is made with the financial institute till lodging of report belatedly on 2nd June, 2023. It is submitted that no loss is shown to have been caused by any act of the applicant to the informant and hence she is entitled for bail.

5. Learned counsel for the officers of the finance company submitted that the relevant transaction pertains to the year 2013 whereas the documents are claimed to have been handed over in the year 2011. Since they joined service of the company much later

in point of time, they cannot be said to be party to the alleged crime. As far as arbitrator is concerned, it is submitted that the said arbitration proceeding was not contested by the informant and on the basis of affidavit and documents made available on record arbitration award came to be passed. It is submitted that instead of challenging the award, criminal proceeding is sought to be filed against arbitrator which can never be permissible.

6. Learned APP opposed the said submissions by referring to the first information report as well as the investigation papers. It is his contention that there is apparent misused of the documents of the informant and hence it is not the case for grant of bail.

7. Learned counsel for the informant opposed grant of any relief to the applicants on the ground that the informant has been cheated by misusing his documents. It is his submission that there is letter issued by the Shriram Finance Company in November, 2018 wherein it is admitted that the award is passed wrongly against him and that there are no documents to show that he is borrower of guarantor. Thus, it is his submission that the said letter is more than sufficient to attract criminal liability against all applicants.

8. In the first information report there is no statement made by the informant about any document being given into the custody of

any of the applicants herein. The documents are said to have been given in the year 2011 to Machindra, who is not before this Court. Hence as far as handing over of the document is concerned, there is no nexus of the present applicants with the said act. It is pertinent to note that as reflected from the first information report in the year 2018-19 itself it came to the notice of the informant that some loan has been shown in his name with Shriram Finance. It is absolutely surprising that in spite of the said knowledge not a single communication is made by him denying any such transaction. It is also pertinent to note that in November, 2022 a letter was issued by the Finance Company to the informant stating that the award is wrongly passed and there is no document to show there was loan transaction against him. In spite of this the informant did not take any action for 6-7 months thereafter. It is only on 2nd June, 2023 the report is lodged with the police. The informant was unable to explain the reason for which no communication was sent to the finance company denying entering any loan transaction in whatsoever capacity.

9. Apart from the above facts, admittedly the documents if any are in the custody of the finance company and that the handing over the document by the informant was not to any of present applicants. In such circumstances, there is no question of any

recovery from them. In any case, there is nothing on record to show that any actual loss has been caused to the informant. Having regard to these facts, liberty of the applicants deserves to be protected. Hence the applications are allowed in terms of interim order dated 4th July, 2023. Application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp