

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1732 OF 2023

Ramesh Khanderao Mirge

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. Joydeep Chatterji, Advocate for the applicant.

Mr. G. O. Wattamwar, APP for the State.

**CORAM : R. M. JOSHI, J.**

**DATE : 6<sup>th</sup> NOVEMBER, 2023.**

PER COURT :

1. This is a second bail application filed before this Court seeking anticipatory bail in connection with Crime No. 68/2023 registered with Beed Rural Police Station, Dist. Beed, for the offences punishable under Sections 420, 467, 468, 471 read with Section 34 of Indian Penal Code.

2. After rejection of first anticipatory bail application by the Sessions Court, applicant preferred Anticipatory Bail Application No. 559/2023 before this Court. After hearing both the sides when this Court has shown disinclination to grant relief, learned counsel for the applicant, on instructions, has withdrawn the said application

which is recorded in order dated 5<sup>th</sup> June, 2023. Thereafter another bail application bearing Criminal Bail Application No. 945/2023 came to be filed before learned Additional Sessions Judge who rejected the said application by order dated 4<sup>th</sup> October, 2023 with observation that there is suppression of fact by applicant about bail application being filed before this Court has been declined.

3. Learned counsel for applicant submits that there is change in circumstance in view of the fact that the bank has auctioned three row houses and has recovered a sum of Rs. 74,51,580/-. It is also contended that the applicant had deposited sum of Rs. 2,74,00,000/- and as such, total amount of Rs.3,48,51,580/- from the loan amount of Rs. 4,15,00,000/- is repaid. It is further submitted by learned counsel for the applicant that two row houses are to be sold by the bank and other row houses are about to be sold by bank. This, according to him, amounts to change in circumstance. On merit, it is submitted that there is no allegation in the First Information Report that in respect of the sale-deed executed in favour of the informant, any bogus no objection certificate of the bank was used. It is submitted that there is vague allegation in respect of the other transactions. It is also argued that

the observations made by learned Additional Sessions Judge about abscondance of the applicant and Investigating Officer not arresting applicant are uncalled for.

4. Learned APP opposed the application relying upon the evidence collected during investigation. He drew attention of the Court to the statement of witness which indicates that the applicant herein had obtained loan of Rs. 4,15,00,000/-. According to him, documents in this regard show that unless no objection certificate is issued by the bank, it would not be open for the applicant to sell row houses to the third party. By referring to the statement of applicant himself made in the letter addressed to the bank, it is submitted that the applicant has admitted about preparation of bogus no objection certificates by using colour xerox of the letter head of the bank. Apart from this, it is pointed out that in respect of certain purchasers, bogus no objection certificate was used for effecting said transaction. Thus, it is his contention that even otherwise for the purpose of investigation into bogus documents prepared by applicant, his custodial interrogation is necessary.

5. At the outset it needs to be recorded that though any number of applications for bail can be filed but in order to entertain and grant such subsequent bail application, there must be substantial change in the circumstances from the time of rejection of previous application. Since the previous bail application was allowed to be withdrawn, this Court had no occasion to pass any order on merit. Hence, merit of the application is now considered while passing this order.

6. Perusal of the First Information Report shows that the informant has purchased a row house from the applicant. From prima facie consideration of record, there is reason to believe that the informant was not intimated by him about the mortgage created in respect of the entire property in favour of the bank. In the First Information Report itself a specific allegation is made that in respect of the row houses mentioned therein, the applicant had executed sale-deed in favour of the said purchaser by using bogus no objection certificate of the bank. Apart from this, investigation papers clearly show that in respect of certain transactions, bogus no objection certificates of the bank are used. The said evidence coupled with the letter dated 29<sup>th</sup> October, 2023 issued by the applicant himself to the

bank more than sufficiently demonstrate the fact that the applicant has prepared bogus no objection certificate and has sold number of row houses. Thus, prima facie his involvement in the serious crime is seen. Learned APP is fully justified in claiming custodial interrogation of the applicant for the purpose of ascertaining as to how the bogus certificates are prepared.

7. In order to maintain subsequent bail application, there has to be substantial change in the circumstances. The basic allegation against the applicant is preparation of bogus documents. Sale of three row houses by the bank pursuant to the order passed by Debt Recovery Tribunal cannot be considered as a substantial change in the circumstance. In any case, the major allegation against the present applicant as it appears from the material on record is that he created bogus certificates in order to executed documents, deposit of any amount, even entire amount, will not make any difference as far as investigation into said allegation against him is concerned. This Court is therefore of the view that there is no substantial change in the circumstances in order to entertain application for grant of any relief to the applicant.

8. As far as observation made by learned Additional Sessions Judge against the Investigating Officer is concerned, if the statement of applicant is accepted that he is very well available at his address, the said observation cannot be faulted with. There is every reason for any Court to doubt about the inaction on the part of the Investigating Officer in this regard. This Court does not wish to make any further observation in this regard. Suffice it to say that no case is made out for grant of anticipatory bail. Hence, application is rejected.

( R. M. JOSHI)  
Judge

dyb