

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.407 OF 2021

Sameer Ilahi Tamboli

... Applicant

V/s.

The State of Maharashtra and Anr

... Respondents

Mr. Bhavika Shinde i/b Mr. Umesh R. Mankapure, for
the Applicant.

Ms. Faiza Shaikh i/b Mr. Nandu Pawar, for Respondent
No.2/informant.

Mr. Amit A. Palkar, APP for the State/Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 9, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.7 of 2021, registered with Vita Police Station, Dist. Sangli, for the offences punishable u/s. 420, 406, 465, 471, of the Indian Penal Code, 1860. The applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

2. The prosecution case in short is as under:

The informant Vijay Ramchandra Nikam who is clerk serving with Vita Urban Co-operative Society Ltd., Vita (Hereinafter referred to as Credit Society) lodged FIR on 04-01-2021. It is alleged that the applicant is member of credit society, where the informant is serving. The applicant borrowed Rs.2,00,000/- from the said credit society by mortgaging a plot admeasuring 120.97

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square meters out of the area of 1.33-R. In revision survey No.457/4C situated within the limits of Vita Municipal Council and entry of the same is mutated in revenue record of the said property. It is further alleged that the applicant on 17-12-2016 executed sale deed in favour of Sagar Deelip Shendge, resident of Ped Taluka Tasgaon in respect of same plot admeasuring 120.97 which was mortgaged with the credit society. The applicant was questioned about the same time to time. However, he did not give any response. Therefore, credit society passed resolution on 30-12-2020 for taking action against the applicant. Accordingly, complaint applicant was made to the police Superintendent, Sangli.

3. The Sessions Court had rejected the application under Section 438 of the Criminal Procedure Code, 1973 filed by the applicant on 29th January 2021.

4. During pendency of this application, the applicant filed an undertaking on 30th June 2023, stating that the applicant undertakes to deposit Rs.8,50,000/- within six weeks. Till today, the amount is not deposited.

5. Learned advocate for the applicant states that she is unable to contact with the applicant.

6. On perusal of the report, it appears that the applicant was granted loan in the year 2011, based on mortgage of property bearing survey No. 457/4C. The entries to that effect was made in other rights column of revenue record. Despite mortgage, and entries of encumbrance, the applicant on 17th December 2016

executed a sale deed of property in favour of third party.

7. On overall consideration of aforesaid factors, the applicant has failed to make out a prima facie case of grant of relief under Section 438 of Code of Criminal Procedure, 1973.

8. The anticipatory bail application stands rejected. No costs.

(AMIT BORKAR, J.)