

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.639 OF 2023

Dhanashri Maningh Indulkar ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Paras Yadav, for the Applicant.

Mr. Pandurang H. Gaikwad, APP for the State-
Respondent No.1.

Mr. Sujit Sahoo, for Respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 1, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.282 of 2022 registered with Shahuwadi police station, Kolhapur for offences punishable under Sections 406, 417, 418, 420, 421, 422 and 426 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. According to prosecution, the recovery officer of co-operative society filed report alleging that house property bearing No.959 admeasuring 1159 square feet mortgaged with the informant/society, was sold to third party at lesser price during subsistence of mortgage. The property was mortgaged as co-lateral security for the loan jointly obtained by the applicant and her

husband. According to prosecution, therefore, applicant in connivance with other accused have cheated the society.

3. The applicant, therefore, applied under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 9 December, 2022.

4. I have considered the material on record and the case papers. On perusal the papers, it appears that the applicant along with her husband applied for loan of Rs.17 lakh from the society/Respondent No.2. The society sanctioned loan on 26 May 2019. The mortgage deed was registered on 18 June 2019. The cheque issued by accused No.1 (husband of applicant) of Rs.5 lakh was dishonoured. The certificate under Section 101 of the Maharashtra Co-operative Societies Act, 1960, has been issued against the applicant and her husband. During pendency of proceedings of 101 certificate, accused No.1, sold the mortgaged property to accused No.3 on 27 November 2019. It *prima facie* appears that accused No.1 was exclusively owner of the property. It also *prima facie* appears that accused No.1 sold the property to accused No.3. The applicant is consenting party to the said sale-deed. According to informant, the act of sale of mortgaged property constitutes offence.

5. Considering the fact that accused No.1 was owner and mortgagor, at this stage, custodial interrogation of the applicant is not necessary. Hence, following order:

a) In the event of arrest of the applicant in connection with C.R.No.282 of 2022 registered with Shahuwadi police

station, Kolhapur for offences punishable under Sections 406, 417, 418, 420, 421, 422 and 426 r/w 34 of IPC, she be released on bail on furnishing P.R. bond of Rs.25,000/-, along with one or two sureties in the like amount.

b) The applicant shall remain present before the concerned police station on 3rd, 5th and 7th August 2023 between 11:00 am to 2:00 pm and thereafter, as and when called by the investigating officer.

c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

e) The applicant shall, at the time of execution of the bond, furnish her address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

6. The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)