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

**ANTICIPATORY BAIL APPLICATION NO. 999 OF 2023**

Anil Maruti Gaikwad … Applicant
v/s.
The State of Maharashtra …. Respondent

Mr. Prasanna K. Shahane for the Applicant.
Mr. S.V. Gavand, APP for the State.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED : 06th APRIL, 2023.**

**P. C. :-**

. This is an Application under section 438 of Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.142/2013 registered with EOW, Unit – 16, Mumbai arising out of C.R.No.366/2013 registered at Lokmanya Tilak Marg Police Station, Mumbai for offences punishable under section 409, 418, 419, 420, 465, 468, 471 and 120-B of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the State.

3. The aforesaid crime was registered pursuant to the FIR lodged by Brijesh Shrichand Jain, the Branch Manager of State Bank of Bikaner and Jaipur, Kalbadevi Branch, Mumbai. The facts narrated in the FIR

prima facie reveals that 17 persons availed car loan by submitting forged and fabricated documents. It is stated that Mr. Tribhuvandas Pande, the then Branch Manager of the said bank, had sanctioned the loan without verifying the records. It is stated that the borrowers did not repay the money. It is alleged that all these purchasers had entered into criminal conspiracy to deceive the bank by availing car loan by submitting false documents. It is stated that the amount which was deposited in the account of the car dealer, was misappropriated by the purchasers and the car dealers and the bank was cheated to the tune of Rs.1,59,99,000/-.

4. The specific allegations against the Applicant are that he had applied for loan of Rs.10,00,000/-. He had annexed quotation of Rs.12,83,408/- issued by M/s. Krishna Motors and had also submitted the receipt issued by the said Krishna Motors for having received margin money of Rs.2,00,000/-. It is alleged that the quotation as well as the receipt submitted by the Applicant was forged and fabricated. The loan amount of Rs.10,00,000/- which was sanctioned, was credited into the account of Krishna Motors. The said amount has been withdrawn. It is the case of the prosecution that the dealer and the Applicant have misappropriated the amount of loan which was credited

into the account of the car dealer.

5. Learned counsel for the Applicant states that the Applicant had not applied for bank loan but had applied for personal loan in the firm run by co-accused – Kailash Gupta. Learned counsel for the Applicant states that the said Kailash Gupta has misused the said application and submitted the said application before the bank in the name of the Applicant. Learned counsel for the Applicant further submits that the Applicant was in New Zealand since the year 2014 and that he has not received any demand notice from the bank for repayment of the loan. He submits that the Applicant is not involved in the said crime and that he has been falsely implicated.

6. Per contra, Mr. Gavand, learned APP for the State submits that the loan application is a typed form which could not have been tampered with or fabricated by Mr. Gupta. He further submits that the Applicant has not only availed loan for himself but also stood surety to one Hamida Mohiddin who is also one of the accused in the present crime. Learned APP states that Proclamation Order has already been issued against the Applicant and that the Applicant has already filed Writ Petition challenging issuance of Proclamation. Learned APP states

that the car dealer of Krishna Motors as well as several purchasers have entered into criminal conspiracy and cheated the bank and misappropriated the loan amount. He submits that the custodial interrogation of the Applicant is necessary to unearth the conspiracy.

7. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

8. The records reveal that several purchasers had applied for car loan from State Bank of Bikaner and Jaipur. The records prima facie indicate that the quotation as well as the receipts issued by the said car dealers for receipt of margin money, were fabricated and that the said purchasers had availed loan on the basis of forged and fabricated documents. The records reveal that the money was credited in the account of the car dealers. The said money was withdrawn and is allegedly misappropriated.

9. The Applicant was also one of the borrowers. The records prima facie indicate that the Applicant had submitted an application for car loan. The said Application is a typed copy of the application which gives personal details of the Applicant including the details of his bank

accounts, his assets and liabilities, the nature of loan availed, purpose of loan, etc. The said application also mentions that the vehicle which was to be purchased and would be hypothecated as primary security towards the loan. The Applicant had agreed to furnish copy of the RC book after noting the hypothecation charge.

10. A plain perusal of the loan application prima facie reveals that the Applicant had applied for loan to State Bank of Bikaner and Jaipur, Kalbadevi Branch. The Applicant has also submitted his copy of pan card, copy of electricity bill and copy of ration card as a proof of address. The Applicant has also submitted a copy of tax returns. All these facts prima facie negates the contention of the Applicant that he had not applied for car loan and that he has submitted an application to Krishna Motors for personal loan.

11. The Applicant had also submitted receipt indicating that he has paid Rs.2,00,000/- to Krishna Motors. The said receipt is prima facie fabricated.

12. By letter dated 11/10/2011, which was addressed to the Applicant, the Bank had informed the Applicant that the amount was sanctioned. The Applicant had also signed Loan-cum-Hypothecation

agreement dated 11/10/2011. The Applicant had also signed letter dated 11/10/2011 wherein he had acknowledged having availed car loan of Rs.10,00,000/- from the said Branch, which was payable in equal monthly installments of Rs.17,787/- each. The Applicant had handed over 11 post dated cheques issued in favour of the Bank and had undertaken to maintain required balance for clearance of cheques. Letter dated 11/10/2011 sent by the Applicant also specifically states that from the proceeds of loan sanctioned to him, he intends purchasing a car from Krishna Motors. He had requested the Branch Manager to credit the said amount to the account of M/s. Krishna Motors towards the cost of the car.

13. On the same date, i.e., on 11/10/2011, bank forwarded demand draft for Rs.10,00,000/-. The said amount was received by Krishna Motors as per the receipt dated 12/10/2011. It is stated that the Applicant had also furnished RC book to the bank of vehicle No.MH-05-AJ-3399. The records prima facie reveals that the said RC book is also forged as vehicle bearing No.MH-05-AJ-3399 is owned by Mr. Jojan Akkapattu Abraham. The records further indicate that the Applicant had also taken insurance policy of the said vehicle which document is also stated to be forged. These facts also prima facie negate the

contention of the Applicant that he had not availed car loan and that he had submitted an application to the co-accused for personal loan.

14. The records reveal that the Applicant had not only availed loan for himself on the basis of the forged and fabricated documents, but also stood surety to another borrower Hamida B. Mohiddin who had also availed loan from the said bank by submitting forged and fabricated documents.

15. The material on record prima facie shows the complicity of the Applicant in the above stated crime. Considering the gravity of the offence, custodial interrogation is necessary to unearth the conspiracy. Hence, the Application is dismissed.

PREETI H JAYANI

**(SMT. ANUJA PRABHUDESSAI, J.)**

Digitally signed by PREETI H JAYANI
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