

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.886 OF 2020

Mahesh P. Chavhan ...Applicant
V/s.
State of Maharashtra ...Respondent.

Mr. Mandar Goswami for the Applicant.
Mrs. Veera Shinde, APP for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 02.05.2023.

P.C. :

1. This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.
2. The applicant is apprehending his arrest in Crime No.177 of 2019 registered at Sarkarwada Police Station, Nashik for the offences punishable under Sections 420, 406, 409, 467, 468, 120-B read with 34 of the Indian Penal Code (IPC).
3. The allegations against the present applicant are that he had availed loan of Rs.16,93,000/- from Business Cooperative Bank Ltd. by pledging fake gold. Multiple loan cases of such nature were found during investigation and the bank was defrauded to the tune of Rs.4 crore.
4. On 23 March 2021, this Court passed the following order:
"1. In both these applications, learned Counsel for the applicants makes a statement that as recorded in the order

dated 14/12/2020, the applicants have deposited Rs.2 lakhs each with the concerned Co-operative bank. He seeks further time to make a statement as to within how much time the balance amount would be cleared by the applicants with the concerned bank. He further submitted that he has not received entire loan amount for himself. Some amount was given to accused No.1 Amol Patil.

2. Learned Counsel for the applicants seeks time to put that aspect on record. Investigating Officer is not present and therefore, APP is also seeking time. Hence at the request of both learned Counsel, stand over to 23/3/2021.

3. Interim order granted earlier to continue till then."

5. It is apparent from the above order that the time was sought to make a statement, within how much time the applicant would deposit the balance amount with the concerned bank. Instead of making the said statement, the learned counsel for the applicant submits that the process of criminal law cannot be used for money recovery and in support of it, relies upon the judgement of Hon'ble Supreme Court in case of ***Bimla Tiwari V. State of Bihar and ors.***¹.

6 It is a case of loan fraud. Considering the nature of offence and in absence of deposit of balance amount which is a public money, I am not inclined to entertain the present application. The Application is rejected.

7. The interim order stands vacated.

[N.R.BORKAR, J.]

¹ 2023 SCC Online SC 51