

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1047 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO. 207 OF 2019

State Bank of India ...Applicant
V/s.
The State of Maharashtra and Ors. ...Respondents

Mr. R.J. Singh for the Applicant.
Mr. A.A. Palkar, APP for the Respondent/State.
None for Respondent No. 3.

CORAM : N.R. BORKAR, J.
DATE : 20.04.2023

P.C. :

1. None appears for respondent No.3. I have heard learned counsel for the applicant and learned APP for the respondent – State.

2. The applicant is complainant in crime no. 302 of 2016 registered at Dattawadi Police Station, District Pune, for the offences punishable under Sections 417, 420, 465, 467, 471 120B read with 34 of the Indian Penal Code (IPC). The respondent No.3 is accused in the said crime and allegations against him are of loan fraud. This Court while granting anticipatory bail to respondent No.3 vide orders dated 13 February 2019 and 08 March 2019 in Anticipatory Bail Application No. 207 of 2019, directed him to deposit an amount of Rs.1,05,00,000/- (in words Rupees One Crore Five Lakhs) in this Court. The respondent No.3 accordingly deposited the said amount.

3. The present application is filed seeking permission to withdraw the said amount deposited by respondent No.3. In support of the application, the applicant-Bank has filed an affidavit-cum-undertaking dated 19 April 2023. For ease of reference same is scanned and reproduced hereinbelow:

Writ:- N. R. Dinkar, J.
 Date: 20/4/2023
 Tendering Court
 Justice
 20/4/2023

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State Bank of India Applicants
 (Original Complainant)

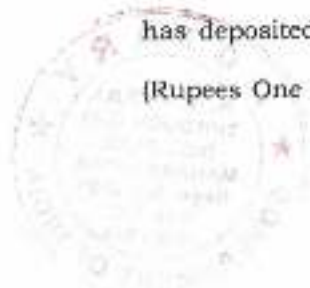
Versus
 The State of Maharashtra
 & Ors. Respondents

**AFFIDAVIT CUM UNDERTAKING FOR WITHDRAWAL OF
 AMOUNT DEPOSITED BY THE RESPONDENT NO. 3 :**

I Ruddhshil C Meshram , aged about 57 years, Chief
 Manager of the Applicant Bank abovenamed, bearing PF Index /
 Employee ID No. 3346749 having my Office at State Bank of
 India, Stressed Assets Recovery Branch, 2nd Floor, Vardhaman
 Building, 321/A/3, Mahatma Phule Peth, Seven Lakes Chowk,
 Shankar Seth Road, Pune - 411 042, do hereby solemnly affirm
 and say as follows :-




1. I say that one Mr. Shrinivas Mohan Hubalikar (borrower) availed home loan of Rs. 1,08,00,000/- from the Applicant by submitting forged and fabricated documents etc. to purchase a Bungalow/Row House No. B-4 situated at Wakad, Pune. The Applicant Bank has lodged F.I.R. No. 302/2016 against Mr. Shrinivas M Hublikar in Dattawadi Police station, Pune. The Respondent No. 2 came to know during investigation that due to the acts, deeds, misdeeds, active participation, connivance and co-operation by Mr. Shrinivas M Hublikar, the Respondent No. 3 & one Mr. Ganesh R Waghire, the bank is defrauded and cheated to approve & disburse the said term loan of Rs. 1,08,00,000/- to borrower. The Respondent No. 3 and Mr. Ganesh R Waghire are also beneficiary of the said loan. The Respondent No. 2 added name of the Respondent No. 3 and Mr. Ganesh R. Waghire in the said FIR No. 302/2016.
2. I say that the Respondent No. 3 has filed Anticipatory Bail Application bearing No. 207 of 2019 in the Hon'ble Bombay High Court of Judicature at Bombay. In compliance with the order dated 13.02.2019 & 08.03.2019, the Respondent No. 3 has deposited an aggregating amount of Rs. 1,05,00,000/- (Rupees One crore Five lakhs only) with the Registry of the



Hon'ble Bombay High Court, Appellate Side, Bombay with direction to the Registry to keep the amount involved in the crime in question (FIR No. 302/2016) to be deposited in Fixed Deposit with a nationalized bank as particularly mentioned set out in above application.

3. I say that the Applicant has preferred the above application before the Hon'ble Bombay High Court for release of Rs. 1,05,00,000/- (Rupees One crore five lakhs only), which was permitted to deposit by the Respondent No. 3 in the Anticipatory Bail Application No. 207 of 2019 with the Registry of the Bombay High Court, Appellate Side Bombay. The said amount deposited by the Respondent No. 3 is part of recovery amount of the aforesaid loan. Hence, the Applicant has taken out the above application and prayed that the Hon'ble court be pleased to pass an order and direction to the Registrar, Appellate Side, High Court Bombay to release an amount of Rs. 1,05,00,000/- (Rupees One crore five lakhs only) alongwith interest if any lying in deposit account in favour of the Applicant, which was deposited by the Respondent No. 3 vide its order dated 13.02.2019 & 08.03.2019 passed by the Hon'ble High Court of Judicature at Bombay under CR No. 302/2016 filed by



the Applicant against the said borrower, Respondent No. 3 & another.

- 4 I undertake to this Hon'ble Bombay High Court to bring back released amount in the Hon'ble court as and when order and direction are passed in the above matter directing the Bank to do so.

cm
Solemnly affirmed at Mumbai / *Pune*

Dated this _____ day of April 2023.

19 APR 2023



For STATE BANK OF INDIA
P. S. Srinivasan
Chief Manager / Authorised Officer
Stressed Assets Recovery Cell
Applicant



Advocates for the Applicants

Before Me

BEFORE ME

cm
R. V. PISAL
NOTARY GOVT. OF INDIA

Noted and Registered

at Sr. No. 1062/23

Date: **19 APR 2023**



4. Considering the overall facts and circumstances and in view of the undertaking filed by the applicant-Bank, I am inclined to allow the present application.

5. The applicant is permitted to withdraw the amount of Rs.1,05,00,000/- (in words One Crore Five Lakhs) deposited by respondent No.3 along with the interest accrued, if any, on the said amount.

6. The Application is disposed of.

[N.R.BORKAR, J.]