

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1048 OF 2019
IN
BAIL APPLICATION NO. 3322 OF 2018

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

Mr. R.J. Singh for the Applicant.
Ms. Rutuja Ambekar, APP for the Respondent/State.
Mr. Vivek V. Salunke for the Respondent No. 3.

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

P.C. :

1. I have heard the learned counsel for the applicant, learned counsel for respondent No.3 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, 468, 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 by order dated 18 January 2019 in Bail Application No. 3322 of 2018, while releasing respondent No.3 on bail, directed him to deposit Rs.18,00,000/- (in words Eighteen 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 the 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:

Certified: N. R. Dhole, J.
 Dated: 20/10/2023
 Tendered: 1/11/2023
 24/2/23
 20/11/23

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
 CRIMINAL APPELLATE JURISDICTION
 APP. CRIMINAL APPLICATION NO. 1048 OF 2019
 IN
 BAIL APPLICATION NO. 3322 OF 2018

State Bank of India Applicant
 (Original Complainant)

Versus
 The State of Maharashtra
 & Ors. Respondents

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

I Ruddhashil C Meshram , aged about 57 years, 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 bank by submitting forged and fabricated documents etc. to purchase a Bunglow/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. Sagar Gorakhnath Nadhe, the bank is defrauded and cheated to grant & disburse the said term loan of Rs. 1,08,00,000/- (Rupees One crore eight lakhs only) to borrower. The Respondent No. 3 and Mr. Sagar Gorakhnath Nadhe were beneficiary of the said loan. The Respondent No. 2 added name of the Respondent No. 3 and Mr. Sagar Gorakhnath Nade in the said FIR No. 302/2016.
2. I say that the Respondent No. 3 filed Bail Application bearing No. 3322 of 2018 in the High Court of Judicature at Bombay. By an order dated 18.01.2019, the Respondent No. 3 deposited an amount of Rs. 18,00,000/- with the Registry of the Hon'ble High Court, Appellate Side, Bombay with



direction to the Registry to keep the amount involved in the crime in question (FIR No. 302/2016) deposited in Fixed Deposit with a nationalized Bank.

3. I say that the Applicant has preferred the above application before the Hon'ble Bombay Court for release of Rs. 18,00,000/- (Rupee Eighteen lakhs only), which was permitted to be deposited by the Respondent No. 3 in the Criminal Bail Application No. 3322 of 2018 with the Registry of the 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. 18,00,000/- (Rupees Eighteen 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 18.01.2019 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.

Solemnly affirmed at Mumbai

Dated this day of April 2023.

19 APR 2023



Advocates for the Applicants

Before Me



BEFORE ME

R. V. PISAL
NOTARY GOVT. OF INDIA

Noted and Registered
at Sr. No. 1066

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.18,00,000/- (in words Eighteen Lakhs) deposited by the respondent No.3 along with the interest accrued, if any, on the said amount.
6. The Application is disposed of.

[N.R.BORKAR, J.]