

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

**BAIL APPLICATION NO.4188 OF 2021
WITH
INTERIM APPLICATION NO.4467 OF 2022
IN
BAIL APPLICATION NO.4188 OF 2021**

Jagdish Pralhad Wagh ...Applicant
vs.
State of Maharashtra ...Respondent

Mr. Satish B. Patil for the Applicant.
Mr. H. J. Dedhia APP for the Respondent-State.
Mr. Chakar, API, Kalyan Taluka police station present.

CORAM : S. M. MODAK, J.

DATED : 14TH JULY 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.
2. The officer from Kalyan Taluka police station is present. FIR is lodged by one Mahendra Balchandra Kadam, on behalf of Maharashtra Gramin Bank. He has lodged complaint against in all four persons. They are flat purchasers. Accused-Kamlesh Tiwari is a person, who has joined hands with this Applicant in defrauding various financial institutions. It consists of Maharashtra Gramin

Bank, Muthoot Finance and other financial institutions.

3. The modus operandi is like that present Applicant, who has agreed to purchase flat from Kamlesh Tiwari, was in need of funds for paying consideration to said Kamlesh Tiwari. The Applicant along with Kamlesh Tiwari has applied for loan from Maharashtra Gramin Bank. The Applicant was sanctioned loan of Rs.10,00,000/-. It was credited to the account of Kamlesh Tiwari. This amount was paid on behalf of the present Applicant to Kamlesh Tiwari.

4. They have not stopped there and thereafter they have also defrauded other financial institutions. One of the sanction letter is on page 269. Muthoot Housing Finance Ltd. has obtained title clearance certificate for the present Applicant. It is on page 269.

5. This fraud came to light when the Branch Manager Smt. S. S. Sathe ordered for inquiry and the first informant-Mahendra Kadam was asked to visit the properties concerned. When he visited properties, he came to know about this fraud and the fraudsters being the Applicant and Kamlesh Tiwari.

6. It is contended that all amounts are transferred to the account of Kamlesh Tiwari and now he has ran away. He has applied for anticipatory bail and police were directed to give Section 41-A

notice, but still he is absconding. This contention is raised as police does not want to take action against Kamlesh Tiwari. The order passed in Anticipatory Bail Application No.508 of 2022, filed by Kamlesh Tiwari dated 23rd November 2022, was brought to my notice. This Court while disposing of the Anticipatory Bail Application of accused-Kamlesh Tiwari has directed that only in case of arrest, the police to give three days prior notice. However, said Kamlesh Tiwari has not appeared before the police.

7. In addition to this submission, learned APP brought to my notice affidavit prepared by present Applicant wherein he has given details as to how Kamlesh Tiwari has returned back amount to him. It is not part of the charge-sheet.

8. Be that it may, now the Applicant is behind bar since 2020, and whatever investigation the police have done, they are supposed to place all documents. None of the documents are required to be recovered at the instance of the Applicant. It is contended that the Applicant is trying his best to repay the loan.

9. Considering the above materials and considering that the trial is not likely to start early, the Applicant has made out case for grant of bail. Hence, the following order is passed :

O R D E R

- (a) The Applicant-Jagdish Pralhad Wagh be released on bail in connection with C.R. No.I-92 of 2017, registered with Kalyan Taluka police station for the offences punishable under Sections 420, 465, 468, 471 read with 34 of IPC, on furnishing personal bond and surety bond of Rs.25,000/-
 - (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
 - (c) The Applicant shall cooperate with police and shall attend the trial Court punctually.
 - (d) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail, after notice to the Applicant.
8. Application is disposed of accordingly. Interim Application No.4467 of 2022 is also disposed of.
9. These are my prima facie observations and the trial Court may not be influenced by that.
10. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]