IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3634 OF 2022

Santosh Ashok Lahoti ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Ashok Saraogi, for the Applicant
Mr. Shantanu Phanse, for Respondent No.2.
Mr. M.G. Patil, APP, for the Respondent/State.
Mr. Patil, PC, Deccan police station, Pune present.

CORAM : N. J. JAMADAR, J.
DATE : SEPTEMBER 05, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 159 of 2023 registered at Deccan police station, Pune for the offences punishable under sections 452, 504, 506 read with 34 of Indian penal Code, 1860 and sections 39 and 45 of the Maharashtra Money-Lending (Regulation) Act, 2014.

3. The first informant/respondent No.2 lodged report with the allegations that the applicant was dealing in the business of illegal money lending. As the respondent No. 2 was in need of money to finance the education of her son, she had availed loan of Rs. 25 lakhs from the applicant at an interest @ 5% p.m. and the applicant

had made her to execute a Deed of Assignment in respect of her flat, by way of security. The applicant had assured her that after principal amount was repaid, he would re-convey the flat. The first informant claimed to have paid Rs. 6,25,000/- by way of interest and returned the amount of Rs. 22,50,000/- towards the principal on 27th July, 2018. Yet, the applicant demanded a further amount of Rs. 5 lakhs towards interest. Hence, the report.

4. Mr. Saraogi, learned counsel for the applicant, submitted that the applicant was initially prosecuted by the first informant for an offence punishable under section 354A of the Penal Code, as is evident from the first information report No. 252 of 2019 registered with Vishrambag police station. The first informant has resorted to prosecutions with a view to dissuade the applicant from enforcing the rights which emanate from the Deed of Assignment and the subsequent Leave and License Agreement executed by and between the parties.

5. Learned APP, on the other hand, submitted that the applicant has not re-conveyed the property despite the refund of the amount including transfer of sum of Rs. 22,50,000/- on 27th July, 2018.

6. The learned counsel for respondent No. 2 submitted that transaction in question is one of illegal money lending.

7. Mr. Saraogi joined the issue by pointing out that the applicant

in fact has money lender's license. However, the transaction in question is not one of illegal money lending. In any event, the applicant is ready to return the said amount of Rs. 22,50,000/- to the first informant.

8. From the perusal of the material on record, it becomes evident that the question as to whether the Deed of Assignment represents a genuine transaction or a subterfuge for illegal money lending is at the heart of the controversy. A machinery is provided under the Money Lending Act to raise such grievances. In the alternative, the parties can seek appropriate declaratory reliefs in the civil Court. Since the alleged offences, even if the prosecution case is taken at par, revolve around the documents, custodial interrogation of the applicant is not warranted.

9. So far as the amount which the first informant claims to have credited to the account of the applicant, Mr. Saraogi undertakes to refund the same within a period of two weeks. In view of the above, the application deserves to be allowed.

Hence, the following order.

ORDER

1] In the event of arrest in C.R. No. 159 of 2023 registered at Deccan police station, Pune police station, the applicant Santosh Ashok Lahoti be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.

2] The applicant shall refund the amount of Rs. 22,50,000/- to the first informant through the banking channel and a copy of the document evidencing the credit of the amount be furnished to the investigating officer, within a period of two weeks.

3] The applicant shall cooperate with the investigation and attend Deccan police station on every alternate Sunday in between 10 am to 12 noon, for one month from today.

4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant or any of the prosecution witnesses and the persons acquainted with the facts of the case.

5] The applicant shall not evict the first informant from the subject flat without following the due process of law.

6] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)