IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 924 OF 2024
SHWETA W/O ABHISHEK JAISWAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

WITH
CRIMINAL APPLICATION NO. 4176 OF 2024
IN ABA/924/2024
SHAIKH FUZEL AHMED S/O SHAIKH ZUBER AHMED AND OTHER
VERSUS
SHWETA W/O ABHISHEK JAISWALAND OTHERS

Mr. Nilesh S. Ghanekar, Advocate for the applicant.
Mr. H.I. Pathan, Advocate for assist to APP.
Mr. A.S. Shinde, APP for the respondent-State.

CORAM : **KISHORE C. SANT, J.**
DATE : **23.10.2024**

PC :-

01. This application is filed seeking bail of the applicant in the event of her arrest in connection with Crime No. 61 dated 26.04.2024, registered with Vedant Nagar Police Station, Dist. Aurangabad for the offences punishable under sections 406, 409, 420, 467, 468, 471 read with section 34 of the Indian Penal Code. The applicant happens to be wife of the main accused, namely, Abhishek Jagdish Jaiswal.

02. The FIR came to be lodged by one Rajendra Namdeo Jadhav, Recovery Officer of the bank, namely, Malkapur Urban Co-operative Bank Limited, Malkapur. The allegations are that the accused No.1 obtained loan from Jawahar Colony Branch of the bank by submitting necessary documents. He also furnished copy of a sale-deed dated 31.12.2018 bearing No.12777/2918 in respect of CTS No.17850/2 of Samarth Nagar and mortgaged the said property with the bank. Present applicant and accused No.3 Ambrish Jagdish Jaiswal, brother-in-law of the present applicant stood as guarantor. On the basis of the said documents along with loan proposal, the bank sanctioned loan of Rs. 9 crores.

03. Since there was default in repayment of loan amount, the bank initiated proceedings against the borrower and the guarantors. Pursuant to the recovery certificate, the bank also attached the property of which the sale-deed was produced and which was mortgaged. A board was put on the property. One Shaikh Parvez Ahmed, Shaikh Fuzel Ahmed and others approached Jawahar Colony Branch of the bank. They lodged complaint with the bank that they are owners of mortgaged property. They have not transferred said land to any one. On that the Recovery Officer made enquiry with the office of Sub-Registrar No.2, Chh. Sambhajinagar by issuing communication. Said communication is

replied by the Registrar's office by communication dated 19.04.2024 informing that no such sale-deed is registered with the Sub-Registrar's office. Thus, it was found that the sale-deed produced by the applicant is bogus and fabricated document. The bank thus filed a complaint with various other documents. So far as allegation against present applicant is concerned, it is alleged that inspite of having knowledge that the sale-deed is bogus and fabricated, she helped accused No.1 in getting loan and thus she is also part of the conspiracy along with other accused persons and just to help accused No.1, she stood the guarantor.

04. On registration of the complaint, police station issued notice under section 41-A of the Criminal Procedure Code. The applicant, pursuant to notice, attended the police station. The applicant, thereafter, apprehended arrest and therefore she approached the learned Sessions Judge, Aurangabad. The learned Sessions Judge by order dated 03.06.2024 rejected the application, on the ground that the present applicant is a wife of accused No.1 and was also a guarantor and that the investigation was in progress.

05. The learned Advocate for the applicant Mr. Ghanekar submits that there is no allegation in the entire FIR that this applicant was a party

to the alleged forged document. She has merely signed the documents as a guarantor. No offence is made out under any of the sections alleged against her. Her specimen signatures are taken by police. After interim protection she has attended the police station and has cooperated in the investigation. The investigation is practically over. Except signing the documents with the bank, there is no allegation showing that she has knowledge about alleged forgery of sale-deed. Accused No.3-brother-in-law of the applicant is already released on bail on 09.05.2024, who was also a guarantor to the said loan. He thus submits that considering the ground of parity, she also deserves bail in the event of her arrest.

06. The learned APP Mr. A.S. Shinde vehemently opposed the application. He submits that the present applicant is not only a wife of the main accused, but is also partner in the business. Out of amount of Rs.9 crores, amount of Rs. 1 Crore 2 lakhs is immediately transferred to the account of one Shakti Agencies, where the applicant is a partner. There are nine such firms, where she is a partner with accused No.1. Thus, she knows all the transactions of accused No.1 and she is also beneficiary of the present transaction. She is aware of day-to-day transactions. Though the applicant has attended police station, she has not stated as to where the amount is invested. Till now only amount of

Rs.52 lakhs is recovered. He further points out that the application was made to the bank for loan. The entire process was completed and the amount was also disbursed on the same day. This shows that all these parties have acted in concert with connivance of the bank officials, who are still absconding.

07. Learned Advocate Mr. H.I. Pathan for intervenor submits that in this case the property of his client is shown to have been transferred in favour of accused No.1. Said document is totally false. His clients were surprised to see a board of the bank on their property, showing that the property is mortgaged to the bank and a charge is created. Learned Advocate Mr.H.I. Pathan further states that the signatures of the owners are forged. The defence now sought to be raised is false and after thought. He thus prays for rejection of the application.

08. Considering all above arguments, this Court has considered the alleged role of the applicant in the offence and as to whether a case is made out for grant of bail in the event of her arrest. Admittedly, the applicant is not an employee of the bank. Considering all the allegations as it is, the maximum punishment of 10 years is provided for the offence under section 409 of the IPC, but ingredients of that section are not

attracted and other offences are triable by the Magistrate. It is not disputed that she attended the police station pursuant to the interim relief granted by this Court as and when called for. There is nothing on record to show that she has not cooperated in the investigation. Her specimen signatures are already taken. So far as another co-accused i.e. Ambrish Jagdish Jaiswal is already released on bail and there is no complaint of misuse of liberty either by him or even by the present applicant.

09. Considering all above facts, this Court finds that there should be no difficulty in allowing the application. Hence, the following order :-

ORDER

(i) This Anticipatory Bail Application is allowed.

(ii) In the event of arrest of the applicant in connection with Crime No. 61 of 2024 registered with Vedant Nagar Police Station, Dist. Aurangabad for the offences punishable under sections 406, 409, 420, 467, 468, 471 r/w 34 of the Indian Penal Code, she shall be released on bail on furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand) with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station as and when called by the Investigating Officer for the purpose of investigation.

(iv) The applicant shall not tamper the prosecution evidence and shall not pressurize the prosecution witnesses.

(v) The applicant shall give her contact details like mobile phone number, address etc. and in case there is any change in the contact details, same shall be informed immediately to the concerned police station.

(vi) Criminal Application No. 4176 of 2024 for permission to assist the learned APP is allowed and disposed off.

[KISHORE C. SANT, J.]