IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.997 OF 2024

Sagar Dattatray Naik .... Applicant
Versus
The State of Maharashtra & Anr. .... Respondents

Ms. A.P. Madhuri, Advocate for the Applicant.
Smt. M.H. Mhatre, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.23/2024 registered at Chandgad Police Station, District-Kolhapur on 18.1.2024 under sections 406, 420, 467, 468, 471, 474 read with 34 of IPC.

2. Heard Ms. A.P. Madhuri, learned counsel for the Applicant and Smt. M.H. Mhatre, learned APP for the Respondent-State.

3. The FIR is lodged on 18.1.2024 by one Vijay Koli. He was working as the Recovery Officer of Shri Warana Sahakari Bank Limited, Warana Nagar, Taluka – Panhala, District- Kolhapur. He has stated that one Partnership Firm by the name Foodexo Cashew Industries had made an application for loan of Rs.65 Lakhs from the informant's bank. At that time, the said firm had given the land at village Poshratwadi belonging to one of the Partners Dattatraya Naik along with constructed building as well as the land of the other partner Shivaji Redekar at village Mugali/Sonarwadi as security. The certificate issued by the Gramsevak, Mugali, Sonarwadi dated 21.10.2016 was also submitted. The FIR mentions that Tukaram Redekar, Sadanand Naik, Pradip Karambali and the present Applicant were the guarantors of that loan. The bank obtained a report from Advocate Satish. They obtained valuation from their Valuer and the loan was sanctioned by the Board of that Bank on 16.11.2016. There are allegations that out of the loan of Rs.65 Lakhs which was taken, Rs.50,10,508/- were repaid and the interest and other amount

which was due and payable was to the tune of Rs.72,81,393/-. Therefore, further inquiry was made and it was revealed that there was no structure constructed on the land at village Mugali/Sonarwadi which was given as a security. The certificate given by the Gram Sevak, Mugali/Sonarwadi on 21.10.2016 was a false document and hence the loan was obtained based on false documents. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that substantial part of the loan is already repaid. The Applicant was only a guarantor and hence had furnished a collateral security but he was not the borrower. He has no connection with M/s. Foodexo Cashew Industries. The bank had initiated the proceedings under Section 138 of the Negotiable Instruments Act in the year 2022. By that time the bank was aware of this transaction and yet the FIR is lodged after two years in the year 2024. She submitted that the Applicant is needlessly harassed on these allegations.

5. Learned counsel submitted that the Applicant is willing to cooperate with the investigation. He deserves one chance to explain his position.

6. Learned APP opposed these submissions. She relied on the statement of the co-accused Shivaji Redekar in which the role of the present Applicant was mentioned. Learned APP produced a report of the concerned police station opposing this application. It is mentioned in the report that there are three serious offences registered against the present Applicant, as follows :

Sr. No.	FIR No.	Police Station
1.	C.R. No.1/2014	Niphad police station
2.	C.R. No.198/2013	Pimpalgaon Police Station
3.	C.R. No.415/2014	Vashi Police Station

. All these offences are registered under Section 420 of IPC. Thus, according to the police, the Applicant is a habitual offender. It is also mentioned that the loan amount of Rs.65 Lakhs which was sanctioned; was transferred to the Applicant’s firm. Rs.40 Lakhs were transferred on 16.1.2017 and Rs.25 Lakhs on 21.1.2017. Hence, the Applicant is the real beneficiary of the loan sanctioned.

7. I have considered these submissions. In the background of the submissions made by the learned APP, the statement of Shivaji Redekar mentions that the Applicant had approached him. He was the brother-in-law of the Applicant. The Applicant told him that they should construct a cashew factory near his house. The Applicant suggested that they could get a loan from the bank. Shivaji Redekar expressed his doubt. At that time, the Applicant told him that he had indulged in similar loan transactions in Nashik District. The Applicant also suggested that since the factory was in the land of one Sridhar Deshpande it could not be attached. The Applicant further suggested that he knew the Gram Sevak and he could get the certificate from him which would help them in getting the loan. Shivaji Redekar has further stated that once the loan was sanctioned the Applicant transferred that loan in his Company's account. He assured Shivaji that he

would pay the installments of the bank. The Applicant did not pay the loan installments and thus the FIR was lodged.

8. Thus, from this discussion and from the available material it is quite clear that the Applicant has played the main role in this transaction. He was the real beneficiary and the money was utilized by him. It was the public money. The bank had lost that money. The offence is serious. There is definite material against the present Applicant. Therefore, the Applicant cannot be protected under Section 438 of Cr.P.C. The Application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

PRADIPKUMAR PRAKASHRAO DESHMANE

Digitally signed by PRADIPKUMAR PRAKASHRAO DESHMANE Date: 2024.04.18 18:34:03 +0530