IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2366 OF 2023

Ashwini Uday Bhalerao
Uday Gopalkrushna Bhalerao ... Applicants
versus
The State of Maharashtra ... Respondent

Mr. Atharva R. Bhingardive i/by Mr. Vaibhav Gaikwad, for Applicants.
Mrs. Rajashree Newton, APP for State.
PC Takbhate S.S., Karmala Police Station, present.

CORAM: N.J.JAMADAR, J.

DATE : 24 JULY 2024

P.C.

1. Heard the learned Counsel for the parties.

2. This is an application for pre-arrest bail in connection with C.R.No.418 of 2023 registered with Karmala Police Station for the offences punishable under Sections 406 and 420 of the Indian Penal Code, 1860.

3. When the matter was listed before this Court on 30 August 2023, this Court was persuaded to grant interim bail observing, inter alia, as under :

> "3.The gravamen of indictment against the applicant is that the applicant had induced the first informant to advance a sum of Rs. 36,000/- by obtaining loan from IDFCFirst Bank, Karmala. The applicant had assured to repay the said loan in 60 installments of Rs. 600/-. The applicant paid 47 installments. The last of which was on 12th December, 2022. The applicant committed default in repayment of a sum of Rs. 7,800/-. The first informant thus alleged that the applicant had deceived her to obtain the loan by making a

false representation that the installments of the said loan would be repaid by her.

4. When the application was listed before the Court a statement was made on behalf of the prosecution that there are other victims. The learned APP submits that there are other victims who have also been defrauded in a similar fashion. In the particulars of the said amount, the first informant is shown to have advanced a sum of Rs. 2,12,673/-.

5. The first information report is conspicuously silent about such substantial advance. Moreover, the relations between the parties seem to be strained as the applicant came to be arraigned in a special case for having committed offences punishable under sections 504 and 506 of Indian Penal Code and sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

6. In the backdrop of the nature of accusations, especially the allegations in the first information report and the amount which the applicant had not repaid, I am inclined to hold that the question as to whether the intention of the applicant was dishonest since the inception of the transaction is required to be determined. From the own showing of the first informant, the applicant did pay 47 installments as agreed, and this prima facie militates against the alleged deceit coupled with injury."

4. Learned Counsel for the Applicant submits that the applicants have appeared before the Investigating Officer and co-operated with the investigation.

5. Learned APP submits that the statements of other victims have also been recorded.

6. In view of the above, at this length of time, further custodial interrogation of the applicants does not seem to be warranted. I am, therefore, inclined to make the order of interim bail absolute.

7. Hence, the following order :

ORDER

(i) The order of interim bail dated 30 August 2023 is made absolute on the terms and conditions incorporated therein.

(ii) In addition, the applicants shall regularly attend the proceedings before the jurisdictional Court.

(iii) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail.

Application disposed.

(N.J.JAMADAR, J.)

Signed by: S.S.Phadke
Designation: PS To Honourable Judge
Date: 25/07/2024 10:48:28