IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3061 OF 2023

Ananda Baba Pawar and Another ...Applicants
vs.
The State of Maharashtra and Another ...Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.3089 OF 2023

Suresh @ Surendra Ramchandra Pratap ...Applicant
vs.
The State of Maharashtra and Another ...Respondent

Ms. Shreya Tiwari a/w. Ms. Dharini Nagda and Ms. Lakshita Fatnani, for the Applicants in ABA No. 3061 of 2023.
Mr. Ranjeet Patil, for the Applicant in ABA No. 3089 of 2023.
Smt. Mahalaxmi Ganapathy, APP, for the Respondent/State.
Mr. Mahendra Deshmukh, for the Complainant.

CORAM : N. J. JAMADAR, J.
DATE : JULY 11, 2024

P.C.:

1. Heard the learned counsel for the parties.

2. These applications are preferred seeking pre-arrest bail in connection with C.R. No. 125 of 2023 registered at Chinchani Wangi police station, Sangli for the offences punishable under sections 420, 406, 408, 465, 468 read with 34 of Indian penal Code, 1860.

3. The applicant Nos. 1 and 2 in ABA No. 3061 of 2023 were the President and Secretary, respectively, of Padali Co-Op. Housing Society. Suresh, the applicant in ABA No. 3089 of 2023, was working as a Peon in the said society. The first informant lodged

report with the allegations that loans were falsely shown to have been raised by Gaurav Chauhan, the nephew of the first informant while Gaurav was still a minor and the applicants withdrew the said account of loan by forging the documents.

4. When ABA No. 3061 of 2023 was listed before the Court on 31st October, 2023, this Court was persuaded to grant interim bail, observing, inter alia, as under:-

> 3) The first informant is a member of the Padali Sahakari Society of which the applicant Nos. 1 and 2 were the President and Secretary. Proceeds of the sugarcane sold by the first informant to Krushna Sahakari Sakhar Karkhana Ltd.,were credited to the account of the first informant in the said Society. When the amount was not disbursed, upon enquiry he was informed that the said amount was withheld as a loan of Rs.1,90,000/- advanced to Gaurav Chavan, the nephew of the first informant was outstanding.
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> 4) Alleging that the said person was a minor when the loan was shown to have been advanced in the year 2016 and by fabricating the documents and by forging the signatures of Gaurav Chavan, the applicants have withdrawn the said amount of Rs.1,90,000/-, the first informant lodged the report.
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> 5) Evidently, the loan was allegedly sanctioned in the year 2016. After the loan was sanctioned by the Society, the amount was credited to the Sangali District Central Co-operative Bank. The debtor had purportedly withdrawn the said amount and has even repaid a part of the loan.
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> 6) In view of the aforesaid nature of the accusation, further investigation is required. However, at this stage, custodial interrogation of the applicants does not seem warranted. I am

> impelled to grant interim protection while directing the applicants to join in the investigation.

5. The same dispensation was given to the applicant Suresh in ABA No. 3089 of 2023 by an order dated 1st November, 2023.

6. The learned counsel for the applicants submitted that the applicants appeared before the investigating officer and rendered the necessary cooperation. The applicants have also given their specimen signatures and handwriting. Therefore, the order of interim bail deserves to be made absolute.

7. The learned APP concurred and submitted that, the investigation has reached an advanced stage.

8. Mr. Mahendra Deshmukh, the learned counsel for the complainant, resisted the prayer for bail. It was submitted that the applicants have fraudulently obtained the loan not only in the name of Gaurav Chauhan, who was then minor, but also in the names of other persons who have lodged the complaints. Attention of the Court was invited to the copies of the applications for loan purportedly submitted by Gaurav Chauhan. It was submitted that on the date of the first application i.e. 18th April, 2016, Gaurav Chauhan was a minor. An endeavoour was made to demonstrate that the signatures on the applications and the withdrawal slips are forged.

9. The learned counsel for the applicants joined the issue by pointing that there was an inordinate delay in lodging the first information report. Moreover, even if the prosecution case is taken at par, there is nothing to establish the nexus between the applicant and the alleged offence.

10. Evidently, there is a considerable delay in lodging the first information report. The first informant allegedly realized the fraud in the year 2018 itself. The FIR came to be lodged in the month of September, 2023. The gravamen of indictment is that the applicants had forged the signatures on the loan applications and the withdrawal slips. Prima facie, there does not appear material to establish the authorship of the applicant for the creation of false documents. Nor there is material to indicate that the amounts were subsequently transferred to the accounts of the applicant or they were otherwise beneficiaries of the fraud. In these circumstances, the question as to whether the applicants were privy to the alleged fraud would be a matter for adjudication at the trial.

11. In any event, the offences revolve around documents. The applicants have cooperated with the investigation. Thus, at this length of time, I do not find any justification for the custodial interrogation of the applicants. Therefore, the orders of interim bail deserve to be made absolute.

Hence, the following order.

ORDER

1] The order of interim bail dated 31st October, 2023 in ABA No. 3061 of 2023 is made absolute on the terms and conditions incorporated therein.

2] The order of interim bail dated 1st November, 2023 in ABA No. 3089 of 2023 is made absolute on the terms and conditions incorporated therein.

3] The applicants shall henceforth appear before the investigating officer as and when directed.

4] The applicants shall regularly attend the proceedings before the jurisdictional Court.

Applications disposed.

(N. J. JAMADAR, J.)