IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 459 OF 2024

Parasharam Pundalik Sutar .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Satyavrat Joshi i/b Samay Pawar, for the applicant.
Mr. Aashish Satpute, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 16th FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.23 of 2024 registered at Chandgad Police Station, Kolhapur on 18/01/2024 under sections 420, 406, 467, 468, 471, 474 r/w 34 of the Indian Penal Code.

2. Heard Mr. Satyavrat Joshi, learned counsel for the applicant and Mr. Aashish Satpute, learned APP for the State.

3. The FIR is lodged by one Vijay Koli. He was the recovery officer for Shri Warna Sahakari Bank Limited. It is mentioned in the FIR, that, M/s Foodexo Cashew Industries was a partnership firm. It had asked for a loan of Rs. 65 lakhs. At that time, two partners of the said firm namely Dattatray Naik and Shivaji Redekar had offered to give

their properties as security. As far as the present applicant is concerned, the allegations pertains to the property of Shivaji Redekar. It is situated at village Mugali, Sonarwadi, Taluka Chandgad, Gat No. 151 admeasuring 48.2 R and the grampanchayat number 308. It was represented to the bank that there was a factory shed on that land. The loan application was accompanied by 7/12 extract of that land and a certificate dated 21/10/2016 issued by the Gramsevak Group Grampanchayat Mugli, Sonarwadi, Taluka Chandgad. The applicant was concerned with issuing this particular certificate. He was the gramsevak and was acting as the Secretary of the grampanchayat as per the Government Circular.

4. The Prosecution case is that, the Applicant had issued that particular certificate, based on which the loan was sanctioned by accepting that property of Shivaji Redekar as security. It was mortgaged with the bank. The Certificate mentioned that there was an existing cashew factory since 2016 on that land. The FIR goes on to mention that about Rs. 50,10,508/- were repaid in respect of loan of Rs. 65 lakhs. However, total outstanding amount including the principal amount and the interest was to the tune of Rs. 72,81,393/-. Since the loan was outstanding, the recovery officer and the other officers of the

bank investigated further and found that the certificate issued by the applicant was a forged certificate. There was false statement recorded in that certificate and thus wrongful loss was caused to the bank, because, loan was sanctioned on the basis of non existing factory on that particular land. On this basis, the FIR was lodged.

5. Learned counsel for the applicant submitted that said certificate dated 21/10/2016 was issued by the applicant in his capacity as Gramsevak. Learned counsel for the applicant invited my attention to the resolution of the Grampanchayat dated 19/03/2016. He relied on the resolution no. 10 wherein it was resolved by Grampanchayat that the factory constructed on gat no. 131 was on the land standing in the land owner's name but the name of the person who had constructed that building was to be recorded in the grampanchayat record. Shivaji Redekar had made an application that his name as the person constructing that building should be entered in the grampanchayat record. That application was accepted by that resolution. Learned counsel for the Applicant submitted that the said resolution itself mentioned that the Secretary i.e. the present applicant was not agreeable to passing of that resolution. He therefore submitted that the applicant had no role to play in getting that resolution passed. It is in

fact, he, who had opposed it. He was duty bound to issue certificate based on that resolution and therefore he has not committed any offence. He further submitted that actual borrower have repaid substantial part of the loan and after all these years, the applicant's custodial interrogation is not necessary.

6. Learned APP produced investigation papers before me. He submitted that the original resolution in respect of that property which Shri Joshi has referred to in respect of resolution No. 10 dated 19/03/2016 is recorded in the minutes book. However, as far as the Secretary's disagreement is concerned, it is written subsequently, in a different handwriting, It was interpolated subsequently. Learned APP in particular relied upon the statement of Shivaji Redekar which was recorded during the investigation. He has stated that Redekar's brother in law Sagar Naik had suggested to him that they could build a cashew factory around his house. At that time Redekar had told him that land belonged to some one else and they would not get any loan. Both of them approached the present applicant who was the Gramsevak. Redekar has clearly stated that the applicant was told that the land was owned by somebody else and the factory was owned by said Redekar and Naik. At that time, the applicant himself gave them an idea that he

would show that the factory was in existence on the land owned by Redekar and Naik and he would prepare a map to that effect and if they did not refund the loan the factory would not be taken charge of because it was existing on the land owned by one Shri Deshpande. Accordingly the applicant prepared a certificate and took commission of Rs. 65,000/- for that purpose. The applicant had thereafter given the concerned certificate. Based on it, the loan was sanctioned.

7. Considering these submissions, it is clear that there is ample material against the present applicant. It appears that the entire idea of obtaining the loan is based on these manipulated documents which were prepared by the present applicant. He has played a major role. A false certificate is prepared by him. He has manipulated even the resolution. These are the important materials available against the applicant at this stage. The public money is involved and bank has lost public money. In these view of the matter, custodial interrogation of the applicant is necessary. Therefore, he cannot be protected under Section 438 of Cr.P.C. The Application is therefore rejected.

(SARANG V. KOTWAL, J.)