IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.376 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.811 OF 2018

Pooja Pravin Gawade & Anr. .... Applicant

versus

The State of Maharashtra & Anr. .... Respondents

…….

- Mr. Abhishek Yendre i/b. M/s. Jay & Co., Advocate for Applicant.
- Ms. Punam Bhosle, APP for the State/Respondent.
- Mr. Dilip Bodake, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 18th APRIL, 2024

P.C. :

1. This application is for permission to Applicant to withdraw the amount of Rs.22,21,311/- along with its accrued interest.

2. Heard Mr. Abhishek Yendre, learned counsel for the Applicant, Mr. Dilip Bodake, learned counsel for the Respondent No.2 and Ms. Punam Bhosle, learned APP for the State.

3. The present application arises out of the order of anticipatory bail granted to both these Applicants in connection with C.R.No.43/2018, dated 16/02/2018, registered with Nerul Police Station, Navi Mumbai, under sections 420 r/w 34 of the Indian Penal Code.

4. The allegations against the Applicants are mentioned in the charge-sheet filed by the investigating agency. A copy of added compilation is tendered by the learned counsel for the Applicants. It is taken on record and marked 'X' for identification.

5. The prosecution case was that the informant was the manager of Navi Mumbai Co-op Bank, APMC, Vashi Branch. The allegations were that the Applicant Pooja had obtained loan from that bank and had furnished her flat as a security. There was default in making the payment of the loan. In the meantime, the said flat was sold by the Applicant Pooja to Mr. and Mrs. Lokhande illegally, though it was mortgaged with the informant bank. On these allegations, the FIR was filed and

investigation was carried out. The amount of fraud was to the tune of Rs.22,92,918/-.

6. After the FIR was registered, the Applicants preferred Anticipatory Bail Application No.811 of 2018. At the first instance, vide the order dated 04/05/2018, this Court (Coram : Revati Mohite Dere, J.) had recorded that the Applicants had undertaken to deposit Rs.22,21,310/- in this Court. On this statement, the Applicants were protected by way of interim protection. The said order was confirmed vide the order dated 31/08/2018 passed by this Court (Coram : Prakash D. Naik, J.) as the said amount was deposited by the Applicants in this Court.

7. Learned counsel for the Applicants submitted that now the matter itself is settled and the trial which was pending before the J.M.F.C., Court No.13, Belapur, District Thane, vide RCC No.1774/2019 was allowed to be compounded u/s 320 of Cr.P.C. Learned counsel relied on the said order dated 03/03/2024, which forms part of the compilation tendered in the Court today.

8. Learned counsel appearing for the informant bank on instructions of Mr. Arvind Sanap, General Manager of the Bank, makes a statement that he has no objection if the amount deposited by the Applicants is returned to them with the accrued interest.

9. Considering this situation and the submissions made by both the learned counsel, and in particular, since the trial itself does not survive any more, as the offence is compounded, there is no impediment in allowing this application.

10. Hence, the following order :

O R D E R

(i) The amount deposited by the Applicants in the present subject matter with the accrued interest, be returned to the Applicants.

(ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)