IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 768 OF 2024

Jaymala Shahajirao Kharade Patil ..Applicant
Versus
The State of Maharashtra ..Respondents

Mr. N. V. Sawant for Applicant.
Ms. Poonam P. Bhosale, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21 MARCH 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 22 of 2024 registered at Sanjay Nagar Police Station, Sangli, on 16.02.2024, under sections 420, 465, 468, 471, 177 and 218 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Sawant, learned counsel for the applicant and Ms. Poonam Bhosale, learned APP for the State.

3. The F.I.R. is lodged by one Sangita Patil. She has stated that, on 23.02.2002 she had deposited an amount of Rs.50000/- with Sai Krupa Co-operative Credit Society Ltd., Sakinaka, Kurla

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(W), Mumbai. She was to get double the amount on 23.02.2007. The amount was not paid and, therefore, she had filed a complaint with the Consumer Forum against the present applicant; who was the Chairman of the said credit society. The Consumer Forum had passed an order in favour of the informant and had directed the applicant to return the investment with the promised amount, and in addition, to pay interest of 15% till actual payment of the amount. As a security, the encumbrance in the name of the first informant was noted in the revenue record on the property of the applicant. Accordingly, the noting was made in the record on 24.02.2010. It is further mentioned that the informant's father in law Namdev Patil had similarly invested Rs.50000/- and he was also given an order in his favour by the Consumer Forum on the similar terms. Therefore, his encumbrance was also noted in the revenue record for his investment. The allegations are that, the applicant had not repaid the amount as directed by the Consumer Forum. The informant came to know that the applicant had sold that property to one Yusuf Patwegar. There is a reference to the order passed by the division bench of this Court in Writ Petition

No.7873 of 2014 dated 03.12.2014. That order was in respect of encumbrance on the same property i.e. residential house of the applicant in favour of the other creditor Suresh Devkar. It is the case of the first informant that the applicant took advantage of the order passed in the petition against Devkar, and instead of removing only his encumbrance, both the encumbrances of the first informant and her father in law were removed. After that the property was sold to a third person. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, said Devkar had initiated the proceedings of auction of the applicant's property against which the applicant had approached this Court in the aforesaid writ petition. The division bench of this Court had already stopped that auction and the amount which was due to Devkar was given to him. Therefore, his encumbrance could be removed. The applicant had made an application to the Talathi with a specific statement that the encumbrance in connection with the auction should be removed. She had not stated that encumbrance of the informant or her father in law should be

removed. He submitted that, keeping aside all this controversy, the applicant is ready and willing to abide by the orders of the Consumer Forum to refund the stipulated amount with interest as directed by the Consumer Forum. He invited my attention to the notice issued on behalf of the applicant to the informant mentioning that the applicant was willing to make such payment. He submitted that, instead of accepting the payment, the informant has chosen to file this F.I.R. Therefore, in this background, the applicant's custodial interrogation is not necessary.

5. Learned APP opposed these submissions. According to her, the applicant was aware that encumbrance of only Devkar was to be removed, but instead of that, encumbrance of the informant and her father in law was also removed. The applicant knowingly took advantage of this situation and sold the property to a third person. Therefore, her conduct shows that, she has deliberately committed this offence with intention. She, therefore, opposed grant of relief to the applicant.

6. I have considered these submissions. The root of the matter is about repayment of the investment made by the informant and her father in law in the credit society of the applicant. The Consumer Forum has passed two orders in favour of the informant directing the applicant to refund her amount and the amount invested by her father in law; with the promised interest and also additional interest of 15% till realization of the amount. The applicant has shown her willingness to refund that amount with the requisite interest, but the informant has not responded positively. The encumbrance was made only as a security for realisation of that amount. Since the applicant has shown her willingness to refund the amount which is the root cause of all this dispute, her custodial interrogation will not serve any purpose. The statement made by the learned counsel, on instructions, that the applicant is willing to refund the amount as directed by the Consumer Forum in favour of the informant and her father in law, is recorded and accepted. In this view of the matter, the applicant can be protected U/s.438 of the Cr.p.c.

7. Hence, the following order :

ORDER

i) In the event of her arrest in connection with C.R.No. 22 of 2024 registered at Sanjay Nagar Police Station, Sangli, the applicant is directed to be released on bail on her executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

ii) The Applicant shall cooperate with the investigation.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)