

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 823 OF 2024

Kalpak Sawangikar

..Applicant

Versus

Investigation Officer of FIR No.0023 & Ors.

..Respondents

Mr. Niranjan Mundargi a/w. Ms. Neha Achliya i/b. Sapana Rachure
for Applicant.

Smt. M. H. Mhatre, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 2 APRIL 2024

P.C. :-

1. The Applicant is seeking transit anticipatory bail application in connection with C.R. No. 23 of 2024 registered at Punjab Agriculture University Police Station on 20/03/2024 under Sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code and under Section 82 of the Registration Act, 1908.

2. Heard Mr. Mundargi, learned counsel for the Applicant and Smt. Mhatre, learned APP for the Respondent-State.

3. The offence is registered in the State of Punjab.

Therefore, I am following the guidelines laid down by the Hon'ble Supreme Court in the case of *Priya Indoria Versus State of Karnataka and others*¹, for consideration of the relief for a limited period. As per the guidelines in Paragraph No. 93(i), Notices had to be issued to the concerned prosecutor and the Investigating Officer.

4. The FIR is lodged by one Sanjay Gupta. He was a guarantor for the loan taken from the Union Bank of India by his brother's company. The informant was a guarantor and had mortgaged his property at village Ayali Khurd. The present Applicant is described as the authorised officer of M/s. CFM Asset Reconstruction Private Limited. The gist of the F.I.R. is that the informant had approached the High Court of Punjab and Haryana at Chandigarh vide CWP-18377 of 2021 assailing the action of the secured creditor. In that case, a division Bench of the High Court, vide the order dated 16/09/2021, had observed that any action regarding the property in question would be subject to the decision of the said Writ Petition. The contention in the F.I.R. is that the

1 2023 SCC OnLine SC 1484

Applicant went ahead with the sale of the property and change in the Revenue Record in spite of this order and thus has committed various offences.

5. Vide the order dated 26.03.2024, this Court had issued notice to the concerned investigating officer and the learned Public Prosecutor. Learned counsel for the applicant has filed Affidavit of service. It is taken on record and marked 'X' for identification.

6. Learned counsel for the applicant submitted that the aforementioned Writ Petition was disposed of vide the order dated 31.07.2022 and the informant was relegated to the DRT having jurisdiction of the subject matter of the writ petition. Learned counsel further submitted that, suppressing this fact, the F.I.R. is lodged. Learned counsel relied on the letter dated 27.01.2023 addressed by the applicant's company to the purchaser Amit Agarwal, in which, it was mentioned that the sale was subject to the decision in CWP No.18377 of 2021.

7. At this stage, it is not necessary to give definite findings regarding the submissions made by the learned counsel

for the applicant. Ultimately, the applicants will have to approach the competent Court having jurisdiction over the registered F.I.R. Suffice it to say that the applicant has made out a case for grant of transit anticipatory bail for a limited period. All the questions on merit are left open to be decided by the competent Court having jurisdiction over that F.I.R.

8. Hence, the following order.

ORDER

- i) In the event of his arrest in connection with C.R.No.23 of 2024 registered at Punjab Agriculture University Police station, for a period of three weeks from today; subject to further orders by the competent Court, the Applicant is directed to be released on bail on his 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 has already deposited his Passport with the nearest police station as submitted by the learned counsel for the applicant. The police can retain this passport for a period of three

weeks subject to further orders from the competent Court.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)