IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1005 OF 2021

Vandana Baban Chavan ....Applicant
V/S
The State of Maharashtra ....Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.1047 OF 2021

Baban Nivrutti Chavan ....Applicant
V/S
The State of Maharashtra ....Respondent

Mr. Rajiv Patil, Senior Advocate a/w Ms. Vrushali L. Maindad, Ms. Shaheen Kapadia *for the Applicant.*
Mr. Kiran C. Shinde, APP *for Respondent/State.*

CORAM: SANDEEP V. MARNE, J.
DATE : 16 APRIL 2024.

ORAL ORDER:

1 These are Anticipatory Bail Applications seeking pre-arrest bail in connection with C.R. No.18 of 2021 registered with Chinchwad Police Station for offences punishable under sections 420, 465, 467, 468, 471 read with section 34 of the Indian Penal Code.

2 The crime has been registered against Applicants in connection with credit facilities availed by them from Nagar Urban Co-operative Bank Limited, Ahmednagar. Petitioners are proprietors/partners of M/s. Indian

Engineering Industries and M/s. Nesh Lib Technoreal. Both the firms apparently applied for credit facilities of Rs.11 crores each (Rs.22 crores in total) from Nagar Urban Co-operative Bank Limited, Ahmednagar. It appears that there was already outstanding loan amount of Rs.4.88 crores against the Applicants' firms in Vaidyanath Urban Co-operative Bank Limited, Kalewadi Branch. It is the case of the Applicants that they actually desired to avail credit facilities of only Rs.11 crores for the purpose of repayment of amount of Rs.4.88 crores to Vaidyanath Urban Co-operative Bank Limited and for utilisation of balance amount for their business activities. Applicants allege that though they needed credit facilities of only Rs.11 crores, the Directors and officials of the Bank sanctioned and disbursed amount of Rs.22 crores to the said two firms. They further alleged that amount of Rs.22 crores disbursed to the Applicants' firms were utilised in the following manner:

Sr. No.	Account Holder Name/ Person Name	Amount Transferred (in INR)	Transferred at the instance of
1	Shree Enterprises	25,00,000/-	Suhas Wakhare
2	Terasoft Technologies	11,00,00,000/-	Ashutosh Landage
3	Hindustan Traders	30,00,000/-	Sandeep Waghmare
4	JKM Foods Pvt. Ltd.	75,00,000/-	Mrs. Jaideep Wankhede
5	Vishwas Nursing Home	2,13,00,000/-	Dr. Nilesh Shelake
6	Balaram Tours and Travels	75,00,000/-	Balaram Sonar
7	Jaideep Wankhede	18,00,000/- (cash)	
	Total	**15,36,00,000/-**	

8	Borrowers and their 2 companies	66,33,000/-	Fixed Deposit and shares with Urban Nagar Bank
9	Vaidyanath Bank Loan	4,88,52,000/-	Settlement of Borrowers Bank loan
10	Balance	1,09,15,000/-	Used by Borrowers
	Total amount used by Borrowers	5,97,67,000/-	
	Total	**22,00,00,000/-**	

3 Applicants thus contend that the Directors and employees of the Bank actually got transferred most of the amounts out of the amount of Rs.22 crores sanctioned and disbursed in the name of firms of the Applicants. Applicants therefore submit that they are actually the victim of the fraud committed by the Directors and officials of the Bank and other persons and accordingly one of the Applicants Mr. Baban Nivrutti Chavan had filed police complaint in this regard on 26 August 2019, in pursuance of which, his statement was recorded by the police on 17 September 2019. It is submitted that in the said statement, Applicant Baban Nivrutti Chavan has given details of the fraud and cheating committed by Directors and officials of the Bank and others, under which an amount of Rs.15.36 crores, sanctioned in the name of the firms of the Applicants, is actually utilized by the said persons.

4 I have heard Mr. Patil, the learned Senior Advocate appearing for the Applicants. He would submit that the entire act of forgery is committed by the Directors and officials of the Urban Co-operative Bank Limited, Ahmednagar who agreed to sanction and disburse the amount needed by

them only on a condition that those persons should be allowed to utilize the additional amount, which would be disbursed as credit facilities to the Applicants' firms. That Applicants had no option but to agree to the condition imposed for sanction of the loan as they were in dire need of funds to clear liabilities of Vaidyanath Co-operative Bank Limited. That the Directors and officials of the Bank and other persons took disadvantage of the position of the Applicants and got transferred various amounts sanctioned towards credit facilities to the Applicants' firms. That the amount of Rs.15.36 cores out of the disbursed amount of Rs.22 crores has actually been swindled by the said persons. That the said amount of Rs.15.36 crores was actually not received by the Applicants, though they are now made liable by the Bank/its Liquidator for recovery of the entire amount.

5 Mr. Patil would further submit that Anticipatory Bail has already been granted to various persons viz. Radhavallabh Laxminarayan Kasat, Anil Chandulal Kothari, Ajay Amrutlal Bora, Navneeth Shantilal Surpuriya, Ashok Madhavlal Katariya, Dilip Amolakchand Gandhi, Vijaykumar Mishrilal Mandlecha, Sanjay Popatlal Luniya, Manesh Dashrath Sathe, Sadhana Nandakumar Bhandari, Sachin Gaikwad and Kedarnath Lahoti. He would submit that though some of the accused were apprehended and they have been released on grant of regular bail. In this connection he would rely upon orders passed by the Additional Sessions Judge, Pune in Regular Bail Applications filed by Jaydeep Prakash Wankhede, Ashutosh Satish Landge, Dr. Nilesh Vishwas Shelke and

Dr. Bhaskar Rakhmaji Sinare. Mr. Patil would further submit that Applicants themselves are on interim protection granted by this Court since 9 April 2021. Mr. Patil would further submit that the Applicants have co-operated with the Investigating Officer as and when called for in the police station and that so far they have attended the police station thrice for investigation. He would therefore pray that the interim protection granted in favour of Applicants be made absolute.

6 *Per contra*, Mr. Shinde, the learned APP would oppose the Applications. He would submit that Applicants cannot feign ignorance about making applications for sanction of total loan amount of Rs.22 crores. That the investigations carried out so far have revealed that applications for sanction of loan amount of Rs.22 crores were made by Applicants in the name of their two firms. That the entire amount of Rs.22 crores was received in the bank accounts of the Applicants. That out of the amounts so received an amount of Rs.15 crores were immediately transferred to Applicants' individual accounts in Bharati Sahakari Bank Limited, Pune on 31 March 2018 and from that account, the amounts have been further transferred in the name of various persons. Mr. Shinde highlight an entry of 31 March 2018 for amount of Rs.2,13,00,060/- in the name of Vishwas Nursing Home and would submit that the said amount of Rs.2.13 crores was utilised by the Applicant-Baban Nivrutti Chavan for purchase of 50% share in Bungalow No.13, Survey No.40 at Ahmednagar which is purchased by way of registered sale deed dated 23 March 2018 registered on 6 April 2018 for consideration of Rs.2.85 crores. Mr. Shinde

would therefore submit that some of the proceeds of crime are utilised by the Applicants for their own gain. He would therefore submit that custodial interrogation of the Applicants is necessary for the purpose of completion of investigations in the present case.

7 I have considered the submissions canvassed by the learned counsel appearing for the parties.

8 Though it is sought to be contended on behalf of Applicants that they never intended to avail credit facilities of Rs.22 crores and that they needed an amount of only Rs.11 crores, it appears to be a matter of fact that applications were made in the name of firms M/s. Indian Engineering Industries and M/s. Nesh Lib Technoreal for credit facilities of Rs.11 crores each with Urban Co-operative Bank Limited, Ahemadnagar. Applicants are not illiterate persons. They are seasoned players in the business. Previously also they had availed credit facilities from Vaidyanath Urban Co-operative Bank Limited, balance of which in the year 2018 was to the tune of Rs.4.88 crores. Applicants are thus not novice particularly in the area of availing credit facilities from Banks. They fully knew the consequences of making applications for availing credit facilities of Rs.22 crores. Therefore they cannot be permitted now contend that what they actually applied to the Bank was only Rs.11 crores. What is required to be noted in the fact that the entire amount of Rs.22 crores was sanctioned and disbursed by the Bank in the name of the two firms. Out of the said amount of Rs.22 crores, it appears that an amount of Rs.4,88,52,000/- was

transferred in the loan account with Vaidyanath Urban Co-operative Bank Limited on 31 March 2018. On the same date, there are two entries of Rs.5,00,00,065/- and Rs.10,00,00,065/- in the account of M/s. Nesh Lib Technoreal maintained with Bharati Sahakari Bank Limited, Pune. Applicants are shown to be proprietors of M/s. Nesh Lib Technoreal. Thus amount of Rs.15 crores was systematically transferred from the account maintained in Nagar Urban Co-operaive Bank Limited, Pimpri Chinchwad Branch to another bank namely Bharati Sahakari Bank Limited on 31 March 2018. On the same day, various amounts are transferred in names of various persons and entities. Some transfers have happened subsequent to 31 March 2018. This is how the Applicants utilized the amount of Rs.15 crores received in Bharati Sahakari Bank Limited on 31 March 2018 for transferring the same to various persons/entities including themselves.

9 Though it is sought to be contended that the entire amount of Rs.15.36 crores was transferred by the Directors/officials of the bank and other persons in the names/firms of their beneficiaries, various entries in the accounts statement of Bharati Shahakari Bank Limited would indicate that some of the amounts are transferred in the name of Applicant-Baban Nivrutti Chavan. Additionally amount of Rs.2,13,00,060/- is shown to have been transferred to Vishwas Nursing Home. It is the contention of learned APP that the said amount was paid towards purchase of a bungalow at Ahemadnagar, transaction in respect of which is completed by way of sale deed executed on 23 March 2018 and registered with Sub Registrar of Assurances, Ahmednagar on 6 April 2018. The persons who

have executed the said sale deed are also apparently made accused in the present case. It thus clearly appears that part of the loan amount received by the Applicants is utilised towards purchase of bungalow at Ahemadnagar. It therefore cannot be contended that the entire amount of Rs.15.36 crores was transferred or utilised in names of various persons/entities for the benefit of Directors/officials of the Bank or other persons. Prima facie therefore both the Applicants' role in respect of the entire transaction needs to be investigated to ascertain the exact benefit that has occurred to them in respect of the entire transactions. Their custodial interrogation is necessary to trace the money trail.

10 Mr. Patil has relied upon various orders passed by Sessions Court, Pune granting regular/anticipatory bail to other accused involved in the crime. However perusal of all the orders passed by the Sessions Court would indicate that the main reason for granting them bail is grant of interim protection by this court in Anticipatory Bail Application No.1005 of 2021 to Applicant-Vandana Chavan by order dated 7 April 2021. In my view therefore Applicants cannot be permitted to rely upon those orders passed by the Sessions Court granting regular/anticipatory bail to other accused.

11 The magnitude of the crime appears to be so large that the operations of Urban Co-operative Bank Limited have come to a grinding halt and the Bank is now in liquidation. It is not known as of now whether

the transaction involved in the crime is the main reason for shutting of operations of Bank or not. In my view however considering the role of the accused in availing credit facilities of Rs.22 crores from the Bank and utilising the said amount partly for their personal gain, full fledged investigations into their role is warranted through their custodial interrogation. Though this court has allowed Anticipatory Bail Applications of guarantors by order dated 15 April 2024, in my view the role attributed to the guarantors is entirely different than the role which is attributed to the Applicants, who are partners/proprietors of the firms in whose names the credit facilities are disbursed and who have utilised part of them for their personal gain. Applicants are instrumental in applying for and availing the credit facilities. The loan amount is received in the accounts of their firms, which appears to have been further transferred to various persons/entities. Prima facie, this appears to be systematic attempt to defraud the bank and divert monies obtained in a credit facilities. The fact that Applicants have not made any attempt in all these years to repay the loan amount is *prima facie* indicative of motive to utilize and enjoy the monies received through credit facility for financial gain of Applicants and their accomplices. All this is done at the cost of depositors and members of the Bank. The police must be permitted to trace the money trail, which is in personal knowledge of Applicants. This can be achieved through their custodial interrogation.

12 In my view therefore though the Applicants are on interim protection granted by this Court, their custodial interrogation would be

necessary for the purpose of ascertaining not just their role in the crime but also the benefits secured by them through the alleged crime. I therefore do not find this is a fit case for grant of anticipatory bail to the Applicants. Resultantly, Anticipatory Bail Applications filed by both the Applicants are **rejected**.

13 After the order is pronounced, Mr. Patil would pray for continuation of interim order for a period of four weeks. Considering that the Applicants are on interim protection since 7 April 2021, the same is extended by a period of four weeks from today.

(SANDEEP V. MARNE, J.)

SUDARSHAN RAJALINGAM KATKAM

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