IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3688 OF 2023

Girish Dhanraj Bhatewara .... Applicant

versus

State of Maharashtra .... Respondent

…....

- Mr. Akshay A. Deshmukh (appeared through VC) a/w Sanket Kadam a/w Shantanu Shimpi, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.620/2023, dated 18/11/2023, registered with Dehu Road Police Station, Pimpri-Chinchwad, under sections 406, 420 r/w 34 of the Indian Penal Code.

2. Heard Mr. Akshay A. Deshmukh, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The FIR is lodged by one Amol Gedewad. He has stated that one Girish Narlawar who was known to the informant met him and told him that there was an ongoing project at Dehugaon. The project was for the development of a property. It was developed by the builder named Girish Bhatewara. The Applicant is the same Girish Bhatewara. The informant wanted to invest in a flat. Therefore, in March 2017 he went to Dehugaon to have a look at Dwarka project, which was being developed by the present Applicant. At that time, Narlawar introduced the informant to the Applicant. The informant decided to purchase the flat No.405 in that project. It was a 1 BHK flat. Narlawar told the informant that he knew the Manager of Aspire Home Finance and that he would get the loan sanctioned for the informant. Therefore, in May 2017, the informant and Narlawar went to the office of Aspire Home Finance. The documents for obtaining the loan were submitted. After that, the informant, the present Applicant and the said Narlawar went to the Sub-Registrar's office. The sale deed in

respect of the said flat i.e. the flat No.405 was registered in the name of the informant. It was registered on 05/06/2017. By that time, the loan was not sanctioned. The purchase price was fixed at Rs.16,26,956/-. For about six months there was no further development regarding the sanction of the loan. The informant pursued the matter with Narlawar. He in turn told the informant that the loan could not be sanctioned and the registration of his flat would have to be cancelled. On 07/12/2017 again the informant went to the Sub-Registrar's office and cancelled the registration. At that time, the Applicant was also present along with Narlawar.

4. In March 2018, the informant received a phone call from Aspire Home Finance telling him that five installments of the loan were paid, but six remaining installments were not paid. The informant was asked to pay the balance installments. The informant tried to tell them that he had not obtained any loan and even the registration was cancelled. The informant confronted Narlawar. He told the informant that they had in fact obtained the loan and the amount was distributed amongst

Narlawar, the Applicant and the Manager of Aspire Home Finance. He assured that the balance installments would be repaid and that the informant would not face any difficulty. After that, the informant did not receive any call from Aspire Home Finance.

5. In April 2022, the informant received a phone call from Motilal Oswal Home Finance. He was told that the informant had not repaid the installments of the loan amount and action would be taken against him. Again the informant discussed this with Narlawar, but again there was no further development. The informant was convinced that he was cheated and on his name the loan was obtained. On this basis, the FIR was lodged.

6. Learned counsel for the Applicant submitted that even the informant was involved in this transaction. It was a case of loan transaction and the FIR itself shows that the informant wanted to invest his money. He submitted that the informant had played equal role to that of the Applicant and therefore, the

informant cannot have any grievance against the Applicant. He submitted that from the FIR, it is quite clear that the entire idea was of Narlawar and therefore the Applicant should not be held responsible for that. His custodial interrogation is not necessary.

7. Learned APP opposed these submissions. According to her, the FIR clearly sets out the role played by the Applicant. She submitted that the same flat was already sold by the Applicant to the other purchasers. Therefore, it cannot be said that the Applicant had no role to play in the transaction.

8. I have considered these submissions and I have perused the agreement to sale in respect of the said flat. The said agreement to sale dated 31/12/2014 was registered on 05/01/2015 in the sub-Registrar's office. The present Applicant was a party as the developer. Therefore the Applicant was very much aware that the same flat i.e. the flat No.405 was agreed to be sold to the joint purchasers named Dolas.

9. Thus, there is substance in the submissions of the learned APP that the Applicant had played an important role in that entire transaction. The loan transaction was fraudulent. Though learned counsel for the Applicant submitted that there is nothing to show that the Applicant or the informant had derived any monetary benefits and that the only offender was Narlawar; at this stage it cannot be said that the Applicant has not played any part. Without his active participation of entering into subsequent agreement, which was registered, the loan could not have been obtained in the name of the first informant. The applicant was a party to the earlier agreements regarding the same flat. Thus, the offence is made out. The Applicant's custodial interrogation is necessary. No case for grant of anticipatory bail is made out. The application is dismissed.

(SARANG V. KOTWAL, J.)