IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.912 OF 2024

Madhuri Sukumar Ghosh & Ors. .... Applicants

versus

State of Maharashtra .... Respondent

…….

- Ms. Prabha Badadare, Advocate for Applicant.
- Smt. M. H. Mhatre, APP for the State/Respondent.

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

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.177/2024, dated 15/02/2024, registered with Mahatma Phule Police Station, Thane City, under sections 120-B, 406, 420, 465, 467, 471 r/w 34 of the Indian Penal Code.

2. Heard Ms. Prabha Badadare, learned counsel for the Applicants and Smt. M. H. Mhatre, learned APP for the State.

3. The FIR is lodged by one Anand Agaskar who was the Assistant Vice President working with Axis Bank. The allegations are that in December 2020, an application for loan was made by the accused Somadip, who is the son of the Applicant Nos.1 and 3, and the brother of the Applicant No.2. He was seeking a loan for purchasing flat No.9/A, Cenced Apartment, Pali Hill Road, Union Park, Khar (W), Mumbai. The bank sanctioned the loan for Rs.6,90,00,000/-. The installments were paid by the borrowers from 10/02/2021 to 10/09/2023. Thus, 32 EMIs were paid. 3 EMIs from September 2023 to November 2023 were pending. The bank made enquiries. The bank officers went to the society and went to that flat. They came to know that one Vadhera family was staying in that flat. The Chairman of the society denied giving any NOC for transferring the flat. On further enquiries it was revealed that the loan was obtained fraudulently and the borrower Somadip never intended to reside in this flat. On these allegations, the FIR is lodged.

4. Learned counsel for the Applicants submitted that the bank is taking legal steps in respect of that flat. The loan is a

secured loan. Therefore, the bank will not be put to a loss. 32 EMIs were paid. Therefore, substantial amount was repaid to the bank. She submitted that the Applicants have not played any major role. The Applicant Nos.1 and 3 are the parents of the main accused Somadip and the Applicant No.2 is his brother. They have not played any part in the entire fraud. They were merely the guarantors. Therefore, their role is minimal.

5. Learned APP produced the investigation papers before me. She submitted that the initial MOU executed between Somadip and Vadhera family itself was fraudulent. It was clearly mentioned that they wanted money for business purposes and for that purpose only the sale agreement for that flat was to be executed. Thus, the intention of those parties was fraudulent.

6. I have considered these submissions. From the investigation, it is quite clear that the transaction was fraudulent based on false representation. Huge amount was obtained by way of home loan by Somadip. The Applicants are connected in the entire episode because they were the guarantors, but their

role is much lesser than the other main co-accused. In this view of the matter, at this stage, the Applicants can be protected by way of ad-interim relief with direction to attend the concerned police. The investigating agency can make enquiries with them and inform the Court whether they are cooperating with the investigation.

7. Hence, the following order :

ORDER

(i) In the event of their arrest in connection with C.R.No.177/2024, dated 15/02/2024, registered with Mahatma Phule Police Station, Thane City till the next date, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

(ii) The Applicants shall attend the concerned Police Station from 22/04/2024 to 24/04/2024 between 01.00 p.m. to 05.00 p.m. and thereafter as and when called and shall cooperate with the investigation.

(iii) This order shall operate till 06/05/2024.

(iv) Stand over to 06/05/2024.

(SARANG V. KOTWAL, J.)