IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1801 OF 2024

Rohini Prakashrao Kakade	…	Applicant
Vs.		
State of Maharashtra	…	Respondent

Mr. Umesh Mankapure for Applicant.

Mr. Tanveer Khan, APP for Respondent-State.

Mr. D. T. Shinde, PSI, Akluj Police Station, Solapur.

CORAM : MANISH PITALE, J.

DATE : JULY 08, 2024

P.C. :

. Heard Mr. Mankapure, learned counsel for the applicant and Mr.Khan, learned APP for the respondent-State.

2. The applicant before this Court is a woman aged about 72 years and she is constrained to approach this Court as she apprehends arrest in connection with FIR No.0269 of 2024 dated 20.05.2024 registered at Akluj Police Station, District - Solapur (Rural), for offences under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860 (IPC).

2. The applicant is one of the five accused persons. The informant is the applicant's sister, who is herself aged about 75 years.

3. The grievance of the informant appears to be that recently, in October 2023, she became aware about a joint account opened in the name of the informant and the applicant in a society / *patsanstha* of which accused Shashikant, cousin of the informant, was in-charge. It is alleged that such a joint account was opened in the year 2009 and that,

on the account opening form, the signature of the informant is forged. Huge amount of loans were taken in the said account, totalling about Rs.75 lakhs over a period of time and that the informant was duped of the aforesaid amount.

4. The learned counsel for the applicant submits that the applicant and her sister i.e. the informant had a joint account since the year 1992 onwards. The bank account mentioned in the statement of the informant was opened in the year 2009 and such joint accounts were utilized for short term loans taken for agricultural operations. It is submitted that the informant appears to have made the aforesaid grievance in the backdrop of a civil dispute between accused Nos.1 to 3 and the informant. Accused No.1 is the brother of the applicant and the informant, while accused Nos.2 and 3 are his sons. Attention of this Court is invited to a copy of the complaint, concerning a suit for partition filed by accused No.2 against the informant, wherein accused Nos.1 and 3 are also made parties. The informant has filed a counter-claim in the said suit and the matter is pending. In the pending suit, the informant has given an undertaking that she will not create any third party rights. It is submitted that the informant has suddenly raised the aforesaid grievance after a number of years in the backdrop of the bad blood created by the civil dispute and that this Court may consider granting protection to the applicant as she intends to co-operate with the investigation.

5. The learned APP submits that the allegations made in the statement leading to registration of the FIR are clear and specific. The offences concern serious allegations of forgery and fabrication, for which custody of the applicant is required.

6. This Court has perused the material on record in the light of the rival submissions. The statement of the informant indicates that she recently became aware about the alleged forgery in the joint account of

the informant, which was opened in the year 2009. The statement indicates that the allegation regarding such forged signature on the bank account opening form pertains to the role of accused No.4 Shashikant, who is the cousin of the informant. But, such act allegedly pertains to the year 2009. Although it is alleged that the joint account concerns the applicant before this Court, the statement regarding forged signature on the form appears to be general in nature. The loss of Rs.75 lakhs caused to the informant also appears to be a general statement, simply for the reason that if such amount was disbursed jointly to the applicant and the informant, behind the back of the informant and the said amount was diverted, the informant has not alleged that the liability of repayment was placed on her and hence, she suffered the loss. In fact, the document at exhibit-D of the application shows that annually, such loan amounts were taken, they were repaid and as on today, the liability towards repayment is shown as '*Nil*'. Therefore, it is difficult to understand as to what role the applicant has been attributed in the present case.

7. The applicant is a woman, aged about 72 years and in the light of the observations made hereinabove, it is clear that so long as she is ready to co-operate with the investigation, no purpose would be served by putting her behind bars. The applicant has indeed made out a case for granting anticipatory bail.

8. In view of the above, the application is allowed in the following terms:-

A. In the event the applicant is arrested in connection with FIR No.0269 of 2024 dated 20.05.2024 registered at Akluj Police Station, District - Solapur (Rural), she shall be released on bail on furnishing PR Bond of Rs.25,000/- [Rupees Twenty Five Thousand only] with one or two sureties in the like amount;

B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 10.07.2024 and thereafter, as and when called by the investigating officer. She shall co-operate with the investigation;

C. The applicant shall not influence the informant, witnesses or any person concerned with the case and she shall not tamper with the evidence.

9. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

10. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab