IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2231 OF 2024

Sandeep Chautharam Parihar … Applicant
Vs.
State of Maharashtra … Respondent

Ms. Anima Mishra, Anuj Singh and Shubham Yadav i/b Subhash Hulyalkar for applicant.

Ms. Rutuja A. Ambekar, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : 25th NOVEMBER 2024

P.C. :

. Heard Ms. Mishra, learned counsel appearing for the applicant and Ms. Ambekar, learned APP for the State.

2. In this application, on 27.08.2024, this Court granted interim relief in favour of the applicant recording the following reasons:

> *"6. This Court has considered the material on record and this Court is inclined to grant interim relief for the following reasons :*
>
> *(a) The statement of the informant, leading to registration of the FIR, itself shows that the applicant had applied for restructuring of the loan, in the light of the covid-19 pandemic and the loss of business. Therefore, it could be said that covid-19 pandemic was a factor that led to the default on the part of the applicant.*
>
> *(b) Prima facie, it appears that the applicant may not be attributed intention to induce the bank into giving him loan,so as to eventually cheat the bank by defaulting in repayment of loan. Therefore, the essential ingredients of offence under Section 420 of the IPC prima facie may not be*

> *made out.*
>
> *(c) That leaves only the offence under Section 406 of the IPC of the criminal breach of trust, for which the maximum punishment is imprisonment for three years.(d)The applicant indeed appears not have responded to the notice issued under Section 41A(1) of the Cr.P.C. But, it could be because of an apprehension that he may be arrested by the Police. An undertaking is given on behalf of the applicant before the Court today that he will remain present before the Investigating Officer and cooperate with the investigation."*

3. Subsequently, by order dated 03.10.2024, the applicant was granted permission to file additional documents. Pursuant thereto, an additional affidavit dated 16.10.2024, along with documents was filed on behalf of the applicant. The learned counsel for the applicant relies upon the additional affidavit as also document at exhibit-A with the additional affidavit i.e. possession notice dated 24.05.2023 issued by the informant bank by invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Securitisation Act).

4. The learned APP has also pointed out that statement of the informant was recorded on 02.10.2024, wherein he stated that due to covid-19 pandemic, there was adverse effect on the market and the applicant was unable to repay the loan and that he intends to do so by making sincere efforts.

5. The learned APP further pointed out the progress in the suit filed by the informant bank before the Debts Recovery Tribunal, indicating that e-auction has been scheduled.

6. This Court while granting interim order and recording the above quoted reasons found that the covid-19 pandemic could be said to be a factor resulting in default on the part of the applicant in repayment of the

loan. Considering the entirety of the circumstances and the documents brought to the notice of this Court on behalf of the applicant as well as respondent-State, this Court is of the opinion that the interim order can be confirmed and the application can be allowed.

7. In view of the above, the interim order dated 27.08.2024 is made absolute and the application is allowed, subject to the applicant continuing to co-operate with the investigation. He shall not tamper with the evidence, and he shall also not influence the informant, witnesses or any other persons concerned with the case.

8. The applicant shall keep the Investigating Officer informed about the progress of the matter as regards proposed settlement with the informant bank.

(MANISH PITALE, J.)

Ajit Pathrikar