IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2310 OF 2024

Avinash Maruti Dhawale ...Applicant

Versus

The State of Maharashtra ...Respondent

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- Mr. Harshit Kabali a/w Mr. Umair Siddique i/b Mr. Nomaan Coatwala, for Applicant.
- Mr. Prasanna P. Malshe, APP for Respondent.
- Mr. M.A. Kharat, Police Naik, Niphad Police Station.

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CORAM : MANISH PITALE, J.
DATE : 03rd OCTOBER, 2024.

P. C. :

1. Heard, Mr. Kabali, learned counsel for the applicant and Mr. Malshe, learned APP for the respondent-State.

2. By order dated 04.09.2024, this Court granted interim relief in favour of the applicant, subject to specific conditions, including a direction to appear before the Investigating Officer on 09.09.2024 and 10.09.2024 and to cooperate with the investigation.

3. It is an admitted position that the applicant did appear before the Investigating Officer on the said dates. According to the learned counsel for the applicant, the applicant has indeed cooperated with the investigation.

4. The learned APP submits that certain documents are yet to be

recovered from the concerned Bank and therefore, short adjournment may be granted.

5. This Court is of the opinion that during the course of investigation, the Investigating Authority is at liberty to approach the concerned Bank and to recover all necessary documents concerning the present case.

6. It is significant to note that while granting interim relief to the applicant in the order dated 04.09.2024, this Court recorded the following reasons.:

> *"8. This Court has considered the rival submissions and the material made available with the present application. This Court is inclined to grant interim relief to the applicant, while keeping the present application pending, for the following reasons:-*
>
> *a. The primary allegation against the applicant, who is a bank official, is to the effect that he connived with the co-accused persons to siphon off the loan amounts disbursed in the name of the informant and his father into the accounts of the co- accused persons. An impression is given in the statement of the informant leading to registration of the FIR that he and his father were unaware as to what had happened to their loan applications and they were not aware about the amounts having been*

disbursed. The documents at exhibit-E, filed with the present application, which were not available when this Court passed the order dated 21.06.2024 in the anticipatory bail applications filed by the co-accused persons, are documents showing acknowledgment of liability by the informant and his father as regards the amounts to be repaid in the context of the loans disbursed in their favour;

b. *These documents bear signatures of the informant and his father. The documents clearly acknowledge liability towards repayment of the loan amounts. This would indicate existence of knowledge about disbursement of the loan amounts with the informant and his father, subject to further investigation into the matter;*

c. *The allegation regarding forgery in the FIR against the accused persons, including the applicant, is to the effect that certain documents were purportedly shown as having been signed by the informant and his father, which led to siphoning off the loan amounts into the accounts of the co-accused persons. There does not appear to be any allegation regarding forging of signatures on the aforementioned documents i.e. acknowledgment of liability, copies of which are annexed at Exhibit-E to the present application;*

d. *Hence, when the allegations made in the* *statement leading to registration of the FIR are examined and analyzed in the context of the documents now placed on record with the present application, particularly the documents at Exhibit-E, it can be said that the applicant's role in the present case could be said to be distinguishable from that of the co-accused persons in whose accounts, the amount eventually found its way;*

e. The applicant is presently posted at Mumbai, away from the place where the alleged offences were committed and he is ready to co-operate with the investigation."

7. Clause (e) of the above quoted portion of interim order specifically recorded that the applicant is now posted at Mumbai and away from the place where the bank is located. Therefore, there is hardly any possibility of the applicant interfering with the investigation or tampering with the material and therefore, the Investigating Authority will not be hampered in any way in carrying out further investigation.

8. The above quoted detailed reasons recorded in the interim order hold good for the applicant to be granted final relief in the present application.

9. Hence, the interim order is confirmed and the application is allowed, subject to the applicant continuing to cooperate with the investigation and not influencing the informant, witnesses or any other

persons concerned with the case. He shall not tamper with the evidence in any manner.

(MANISH PITALE, J.)