2024:BHC-NAG:14037

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.694 OF 2024

Iman s/o Abdul Rahim Khan
Vs.
State of Maharashtra, Through Police Station Officer, Police Station, Bajaj Nagar, Nagpur

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Mr. G. S. Gour, Counsel for the applicant.
Mr. Kavita Bhongde, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/12/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.125/2024 registered with Police Station, Bajaj Nagar, Nagpur District Nagpur for the offences punishable under Sections 406, 420, 468 and 471 of the Indian Penal Code, the applicant approached to this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of report lodged by Vinit Dilip Uke serving as Regional Head (Sale) in a ICIC Bank of last 8 years. As per the allegation in the FIR, in February 2023 the present applicant applied for home loan to purchase the plot and to raise the construction thereon. After scrutiny of the said application and documents annexed therewith, the loan of Rs.35,00,000/- was

sanctioned by the bank to the applicant and it was disbursed. In May 2023, the original owner of the said plot namely Nisha Rajkumar Jaju with her husband approached to the bank and made an inquiry about the plot Nos.89 and 90, then it revealed that the applicant obtained the loan against the said properties by supplying the sale deed which is forged one. The said original owner also informed the bank that she has not executed any sale deed of the said properties in favour of the accused. On the basis of the said information, the bank has initiated the inquiry wherein it was revealed that the applicant supplied the false and fabricated documents i.e. the sale deed and other documents and thereby got sanctioned loan. The informant reported to the said incident to the police and on the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the applicant is already protected by this Court in another Crime i.e. Crime No.706/2023 is concerned. He submitted that applicant is a *bona fide* purchaser of the said plot and he has obtained the loan on the basis of the said sale deed which is executed in his favour. As far as the custodial interrogation is concerned, which is not required as nothing is to be recovered from him. The entire investigation revolves around the documentary evidence, which is already in possession of the

Investigating Officer. In view of that, the application deserves to be allowed by protecting the applicant by granting anticipatory bail.

4. Learned APP strongly opposed the said application and submitted that similar types of the offences are registered against the present applicant which are five in number. She submitted that the nature of the offences and *modus operandi* of the applicant is the same while committing the other offences also. While considering the anticipatory bail, this Court has to consider the criminal antecedents and also to consider that by applying the same *modus operandi* the applicant has duped various persons and therefore, the provisions of the MCOC Act are applied against him in Crime No.706/2023. She submitted that considering the allegation against the present applicant, he has not only prepared the forged documents but also on the basis of the said forged documents obtained the loan which is public money. Considering the involvement of the present applicant in a similar type of the offences, the application deserves to be rejected.

5. Heard learned Counsel for the applicant as well as learned APP for the State. Learned Counsel for the applicant placed reliance on the decision of **Vijay Kumar Ghai and others Vs. State of West Bengal and others** reported in **(2022) 7 SCC 124**.

6. After perusal of the investigation papers, it reveals that during the investigation, the Investigating Officer has recorded the statement of the original owner of the said plot. She specifically stated that she has not executed any sale deed in favour of the present applicant. Thus, it is apparent that the present applicant has prepared the forged sale deed and on the basis of the said sale deed, the loan of Rs.35,00,000/- is obtained by concealing the fact from the bank and the public money was used to sanction the loan to the present applicant. As far as the decision of the Hon'ble Apex Court on which the applicant is relied upon is concerned while considering the quashment of the FIR, the observation is made by the Hon'ble Apex Court. In the present case, the investigation papers shows that similar types of the offences, five in numbers are registered against the present applicant, wherein the similar allegations are levelled. Mere custodial interrogation is not required, is not sufficient to consider the application for bail, in the event of the arrest. The nature of the offence requires to be considered and on going through investigation papers, it reveals that since 2017, these five offenes are registered against him which were committed by using the similar *modus operandi* and therefore, the investigating agency has applied after obtaining the approval the provisions of the MCOC Act.

7. The contention of the learned Counsel for the applicant that custodial interrogation of the present applicant is not required, which is not sufficient ground to release him on bail. Considering the repeated offence committed by the present applicant with the similar *modus operandi*, the application deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate