IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1319 OF 2024

1. Rajaram Shankar Dharwat
2. Snehal Rohan Dharwat … Applicants

Versus

The State of Maharashtra & Anr. … Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO. 1330 OF 2024

1. Shobha Rajaram Dharwat
2. Rohan Rajaram Dharwat … Applicants

Versus

The State of Maharashtra & Anr. … Respondents

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Mr. Arun Rajput a/w Viral Mukte i/b Rahul Tiwari for Applicants.
Mr. A. A. Naik, APP for Respondent-State.
Mr. Yogesh Morbale for Respondent No.2.

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CORAM: MANISH PITALE, J.
DATE : 4th FEBRUARY 2025

P.C. :

. These anticipatory bail applications have been pending in this Court since May 2024. On 14th May 2024, during the vacation, this Court (Coram: M. W. Chandwani, J.) passed an order recording statement made on behalf of the Investigating Authority that the applicants would not be arrested till next date as long as they cooperated with the investigation.

2. In that light, this Court recorded the statement and directed

the applicants to attend the concerned Police Station on every Thursday for three weeks and to cooperate with the investigation.

3. In this case, the informant is a Branch Manager of a Cooperative Bank. It is alleged that the accused persons clandestinely disposed of machinery without repayment of the credit facility extended by the Bank and thereby, indulged in offences under Sections 406, 420 and 424 read with Section 34 of the Indian Penal Code, 1860 (IPC). FIR No. 0236 of 2024 dated 20th March 2024 was registered for the said offences at Shivaji Nagar Police Station, Kolhapur.

4. These applications were adjourned from time to time when the first informant-Bank was also represented by Counsel. Statements were made on behalf of the applicants to the effect that amount agreed upon as One Time Settlement (OTS) with the Bank, would be made good in a specific period of time.

5. The record shows that, during the pendency of these applications, the applicants deposited an amount of Rs.1,35,00,000/- out of Rs.3,72,00,000/- of OTS amount. In the order dated 3rd December 2024, this Court referred to the earlier orders and directed the applicants to make all efforts to dispose of the land, which was subject matter of the credit/loan facility and thereupon, to show their bonafides by repaying the amount to the informant-Bank.

6. Today when the applications are called out for hearing, the learned counsel for the applicants submits that despite efforts made by the applicants, a buyer for the land could not be found and in that context, since the land was already mortgaged to the informant-Bank and the Bank holds charge on the same, on 9th January 2025, the informant-Bank itself issued public notice for sale of the said land. It is submitted that in such a situation, the physical custody of the applicants may not be required, as they are cooperating with the informant-Bank.

7. The learned APP submits that in these circumstances, this Court may pass an appropriate order, as the record indeed shows that the applicants have at least made good an amount of Rs.1,35,00,000/- to the informant-Bank.

8. The learned counsel for the informant-Bank submits that despite the advertisement, purchasers are yet to come forward and there is enough material to show that the applicants clandestinely sold the plant and machinery, thereby duping the informant-Bank.

9. This Court is of the opinion that with passage of time and events that took place after interim relief started operating in favour of the applicants, it is found that the applicants have made good at least an amount of Rs.1,35,00,000/-. The informant-Bank itself is now taking steps for sale of the mortgaged land, the proceeds of which would certainly be adjusted towards the dues payable by the applicants. In such circumstances, this Court is of

the opinion that insistence of physical custody of the applicants may not be justified, as they appear to have cooperated with the Investigating Authority as well as first informant-Bank.

10. The present proceedings cannot be reduced to recovery proceedings, as the Bank would, in any case, be entitled to take all steps available in law against the applicants.

11. In view of the above, the interim order granted by this Court is made absolute and the applications are allowed, subject to the applicants continuing to cooperate with the Investigating Authority as well as the first informant-Bank, in the peculiar facts and circumstances of the present case. The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses or any other person concerned with the case.

MANISH PITALE, J.