

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 873 OF 2025

MADHURI SAMAY GANGURDE APPLICANT

VERSUS

THE STATE OF MAHARASHTRA & ANR. RESPONDENTS

ALONGWITH

ANTICIPATORY BAIL APPLICATION NO. 875 OF 2025

SWATI NITIN RAMRAJE APPLICANT

VERSUS

THE STATE OF MAHARASHTRA & ANR. RESPONDENTS

Mr. Aniket Nikam i/b. Mr.Amit Icham for the Applicants in both ABAs.

Mr.Ajay S. Patil, A.PP for the State.

Mr. R. S. Nalkande, P.S.I., I.O., Satpur Police Station present.

CORAM : RAJESH S. PATIL, J.

DATE : 17th APRIL, 2025

P.C. :-

The Anticipatory Bail Application No.873 of 2025 is filed under Section 482 of the BNSS in connection with Crime No. 0070/2025 dated 3rd March, 2025 registered with Satpur Police Station, Nashik City for the offences punishable under Sections 23, 39, 42, 45 of the

Maharashtra Money Lending (Regulation) Act, 2014 (for short 'the Act').

2. The Anticipatory Bail Application No.875 of 2025 is filed in connection with Crime No. 112/2025 dated 4th March, 2025 registered with Panchvati Police Station, Nashik City for the offences punishable under Sections 23, 39, 42, 45 of the Act.

3. The applicant Ms.Madhuri Samay Gangurde and the applicant Ms.Swati Nitin Ramraje are real sisters. There is no dispute about this. Two different crimes have been registered against them under Section 23, 39, 42 and 45 of the Act and subsequently on 14th March, 2025, the police authorities has added Sections 305, 351(2) and Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

4. Based on the complaint filed by Ms.Kalpana Sonar, the first informant (Officer of Co-operative Department) lodged two FIR, separately against the present two applicants. Both the applicants filed separate pre-arrest bail applications. The Sessions Court by its separate orders passed on 19th March, 2025 rejected, the pre-arrest bail applications of both the applicants. Thereafter, these two separate pre-arrest bail applications are filed by the applicants.

5. It is submitted by Mr.Nikam on behalf of the applicants that the

applicants are not in the business of lending loans. Therefore, the Sections of Money Lending Act are not attracted. Presuming, without admitting that once such transaction has been involved, still the provisions of Maharashtra Money Lending (Regulation) Act, 2014 will not be attracted. Atleast, there are two authorities of this Court on the said issue viz., *Ratnabai Ratu Bheemashankar Chitte vs. State of Maharashtra Through Murum Police Station & Ors.*, 2024 SCC OnLine Bom 3291 and *Mandubai Vitthoba Pawar vs. The State of Maharashtra & Ors.*, 2015 SCC OnLine Bom 4935.

6. As far as the complainant Ms.Kalpana Sonar is concerned, there was a loan agreement between the said Ms.Kalpana Sonar and applicant - Ms.Swati Nitin Ramraje for an amount of Rs.8,20,000/-. As a security, a promissory note was also executed. Apart from this loan agreement, there is nothing on record as far as the applicant Ms.Swati Nitin Ramraje is concerned. As far as Ms.Madhuri Samay Gangurde is concerned, she was part of the Bachat Gat (Small Saving Scheme). The said Bachat Gat was run by the members of the said Group. Pursuant to which, certain cheques were lying in the house of Ms.Madhuri Gangurde which are seized by the investigating authority while the raid was conducted at the house of Ms.Madhuri Gangurde

and Ms.Swati Ramraje.

7. Since the loan amount was granted by Ms.Swati Ramraje to Ms.Kalpana Sonar was not repaid, Ms.Swati Ramraje on 17th December, 2024 lodged an NC against Ms.Kalpana Sonar. In retaliation, Ms.Kalpana Sonar lodged a complaint with the Co-operative Department against Ms.Madhuri Gangurde and Ms.Swati Ramraje. Pursuant to the said complaint, raid was conducted and thereafter an FIR has been lodged.

8. There are no antecedents as far as the present applicants are concerned. Though notice under Section 35(3) of the BNS was served on the present applicants, however since there was no protection granted to both the applicants, they immediately, on the next date, preferred pre-arrest bail application before the Sessions Court. As the Sessions Court rejected the pre-arrest bail application of both the applicants, the present pre-arrest bail applications have been filed before this Court. The applicants are ready to co-operate with the police. Therefore, the custody of the present applicants is not necessary at all.

9. The *Division Bench of this Court* by its order dated 14th September, 2022 passed in Criminal Appeal No. 888 of 2022 has held

that once a notice under Section 41(A) of the Code of Criminal Procedure, 1973 is issued, it will indicate that the investigating agency is not inclined to arrest the applicants immediately unless and until they commit breach of any of the conditions/directions prescribed in the notice.

10. In response to the submissions made by Mr.Nikam, the learned A.P.P. opposed both the applications and submitted that both the sisters - the present applicants are involved into the business of money lending, without having any kind of valid licence. Not one but atleast eight different cheques duly signed by different parties, few of them drawn in the name of applicant - Ms.Madhuri Gangurde and other cheques being blank but duly signed, have been found in the raid conducted in the house of Ms.Madhuri Gangurde. As far as raid which is conducted in the house of applicant Ms.Swati Ramraje is concerned, a loan agreement was found which was executed between the applicant Ms.Swati Ramraje and the complainant - Ms.Kalpana Sonar. So also, the promissory note was found to have been executed. Few other property documents have also been found in the house of Ms.Swati Ramraje including that of credit card, Aadhar card. So also, the document executed between the builder/developer with

Ms.Kalpana Sonar was found in the house of Ms.Swati Ramraje.

11. It is further submitted that the NC of Ms.Swati Ramraje was of 17th December, 2024, much before the complainant Ms.Kalpana Sonar in the month of November, had lodged her complaint with the Co-operative Department against both the sisters.

12. The learned A.P.P. further submits that the persons who have signed the blank cheques were contacted by the Investigating Officer. On calling up those persons, their phone numbers were either switched off or not reachable. He submits that the Investigating Officer was able to transcript the conversation by way of CDR of applicant Ms.Swati Ramraje and the complainant Ms.Kalpana Sonar. The said conversation clearly shows that both the applicants are into the business of money lending. He further submits that it is the case of the complainant that only a sum of Rs.1,40,000/- was obtained as a loan from the applicant Ms.Swati Ramraje and in turn, the complainant has paid upto now Rs.4,70,000/-, out of the said sum, Rs.60,000/- was paid to Ms.Madhuri Gangurde on instructions of Ms.Swati Ramraje. The interest percentage payable on the principal sum was 30% per month. Further the said applicant Ms.Swati Ramraje had been to the office of the builder/developer and had met

Ms.Kalpana Sonar, the complainant, who used to work in the office of the builder/developer. Forcefully, she took over the documents which was executed between the builder/developer with Ms.Kalpana Sonar. Thereafter, when Ms.Swati Ramraje called upon the builder/developer and threatened him, that if he wants the said document back, he should force Ms.Kalpana Sonar to return back the entire loan amount. He submitted that it will be important to reject both the pre-arrest bail applications as once the Court protects both the applicants, they will not co-operate with the Investigating Officer and also they will influence the witnesses in both the crimes.

13. I have heard learned counsel for both the sides and I have gone through the documents on record.

14. There is no dispute that the notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) was issued to both the applicants, instead of co-operating with the police machinery, they choose to file a pre-arrest bail application. According to me, law has settled on the issue of notice under section 35(3) of the BNSS Act, earlier Section 41(A) of the Code of Criminal Procedure, 1973. If a notice is issued, which will always be that the police do not intend to arrest the noticee, as long as they are ready to co-operate. However, if

the noticee do not attend the office of the Investigating Officer, then the Investigating Officer will be free to take action as contemplated under Sub-Section 6 of 35 of BNSS Act. As far as the present applicants are concerned, after receiving notice under Section 35(3) of the BNSS Act, the present applicants (noticee) choose to prefer the pre-arrest bail applications before the Court of Sessions. Therefore, I am of the view that the applicants have chosen not to co-operate with the police machinery. The pre-arrest bail applications filed by the applicants before the Sessions Court have been rejected. The view expressed by the Division Bench in Criminal Appeal No. 888 of 2022, does not help the present applicants, who have chosen not to co-operate.

15. As far as issue whether the present applicants are in the business of money lending is concerned, admittedly, there is no licence with both the applicants for lending monies. Therefore, the issue remains whether the present applicants have illegally without licence lended monies to many individuals as claimed by the Investigating Officer. On the complaint filed by Ms.Kalpana Sonar, the Co-operative Department has filed an FIR after the raid conducted in the house of both the applicants, when the police machinery was able to seize six

blank cheques in the house of Ms.Madhuri Gangurde. However, they contain the names and signatures of different individuals viz. Sujata Birari, Monika Sane, Thakare Vishnu, Suvarna Kor, Vijay Nimba Kor. Two cheques were in the name of the applicant Ms.Madhuri Gangurde, one amounting to Rs.1,60,000/- and another amounting to Rs.2,23,000/-, these two cheques were signed by Ms.Alaka Dive and Ms.Kalpana Sonar (complainant) respectively. With the explanation today given by the advocate for the applicants, at this primary stage, I am not satisfied, that these blank cheques found in the house of Ms.Madhuri Gangurde should not be construed to invoke offences punishable under Sections 23, 42, 45, 39 of the Money Lending Act. The theory which has come forward that there was some kind of Bachat Gat of which Ms.Madhuri Gangurde was a member and the said Bachat Gat would mean 'Bhisee'. I am not able to understand if it is a Bhisee or if it is a Bachat Gat, then there was no need of blank cheques signed by different individuals to be lying in the house of Ms.Madhuri Gangurde - applicant.

16. This now takes me to the case of the applicant Ms.Swati Ramraje. In the raid which was conducted in the house of Ms.Swati Ramraje, admittedly, one loan agreement was found executed

between Ms.Swati Ramraje and the complainant – Ms.Kalpana Sonar. So also, a promissory note was found which was executed by Ms.Kalpana Sonar in favour of Ms.Swati Ramraje. The statement of builder/developer was recorded that he had received a telephonic call from Ms.Swati Ramraje, threatening him that if he wants the document executed between him and the complainant – M.Kalpana Sonar, he should direct Ms.Kalpana Sonar to pay back the loan amount of Ms.Swati Ramraje.

17. So also, in the file of the Investigating Officer shown to me, different amounts have been shown to have been paid to the applicants. There were also property documents, credit card xerox, Aadhar card xerox found in the house of Ms.Swati Ramraje.

18. According to me, at this stage when the investigation is still ongoing, granting protection to the present applicants would mean the process of investigation would be stopped. Once the applicants are protected by pre-arrest bail order, there are less chances that they will co-operate with the investigation.

19. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*¹ in paragraph 12 has held as under :-

“..... In many anticipatory bail matters, we have

1 (2022) 17 SCC 391

noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

20. A similar view has been taken by the Supreme Court in the case of *the C.B.I. vs. Anil Sharma*², in paragraph 4 which reads as under:-

“4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with

2 AIR OnLine 1997 SC 797

the task of disinterring would not conduct themselves as offenders.”

(Emphasis supplied)

21. Considering the law laid down by the Supreme Court in the above judgments and considering the facts of the present case, **both these pre-arrest bail applications are hereby rejected.**

[RAJESH S. PATIL, J.]