

Criminal Bail Application No. 2153/2020
(CNR-MHPU01-006416-2020)

ORDER BELOW EXH. 1

1) The applicants have moved this application for anticipatory bail on an apprehension of being arrested in connection with FIR likely to be lodged against them u/s. 420, 421, 422, 424, 467, 468, 471 r/w. 34 of I.P.C. registered at Wakad police station.

2) Perused application, say filed by Investigating Officer. Head Ld. Adv. for the applicants and the complainant.

3) As per the case of prosecution, one Raju Tanvani who is branch Manager of Seva Vikas Co.Op. Bank Ltd., has filed the complaint alleging therein that, the applicants alongwith other accused have secured a term loan of Rs. 7 Crores in the year 2014. The applicants and other accused had entered into a registered Mortgage Deed dt. 08/10/2014. The applicants had mortgaged few properties and out of which a property bearing shop no. 5 & 6 admeasuring about 1360 sq.ft. Built up area and an area admeasuring 624 sq.ft., on ground floor and office on the first floor and space with total built up area 1800 sq.ft. Constructed on S.No. 77 situated at village Rahatani, Pune was mortgaged. The applicants and other accused without any sanction, authority sold the first floor of the said mortgaged property to Dr. Madhav Chavan by Deed of Assignment dt. 21/07/2015. Thus, applicants have cheated, defrauded the bank and thus a written complaint came to be filed with Wakad police

station. Wakad police station has issued a notice u/s. 160 Cr.PC. to the applicants.

4) Ld. Adv. for the applicants submit that, the applicants have not committed any offence, but they have been implicated on false and frivolous complaints with ulterior motives to pressurize the applicants and to extract money. Manisha Bhojwani is the owner of S.No. 77. In the year 2014 the applicants and the accused Manisha Bhojwani, Khemu Bhojwani were in need of money for business purpose. Therefore, the said Mortgage Deed came to be registered. In the year 2015, the applicants and the authorities of the said bank were in talk to settle the loan. The applicants was not even involved into the selling of the mortgaged property to Dr. Chavan. Complainant bank was aware about the said agreement since 2015, but did not object till 2020. The complainant bank is asking to pay interest @ 20% p.a. In the proceeding before Divisional Joint Registrar of Co.Op. Societies, Pune Division, the applicants have already tendered willingness to repay the loan with interest @ 11% p.a. The complainant bank have not succeeded in the recover proceeding and have filed the present complaint. There is delay in filing the complaint. The entire dispute is Civil in nature. The custodial interrogation of the applicant is not necessary as all the documents are public documents. There is no recovery or discovery from the applicants. Hence, prayed to release on anticipatory bail.

5) Per contra, the complainant appeared personally and submitted that, the applicants and others have

misappropriated the amount of Rs. 7 Crores. Without the knowledge of bank the applicant and others created third party interest in the said property without no objection certificate of the complainant bank. Hence, prayed to reject the application.

6) The Asstt. PI. of Wakad PS in his say submits that the bank officer Shri. Raju Tanvani filed complaint on 16/11/2019 against the applicants and others about cheating and defrauding. Afterwards, he issued notice u/s. 160 of Cr.PC. to the accused persons, but they did not appear for inquiry. They also not co-operated. He further submitted that, the inquiry is going on and FIR yet is not registered.

7) It transpired that, there is prima facie involvement of the applicants can be seen from the bare perusal of the complaint dt. 16/11/2019. The applicants have not appeared at police station Wakad for inquiry despite receiving the notice u/s. 160 of Cr.PC. The inquiry is still going on and applicants are not co-operating. Therefore, in my view, looking to the gravity of the allegations alleged in the complaint, the applicants do not deserve any leniency at the hands of this court at this juncture. With this, following order is passed.

ORDER

[1] Application (Exh.1) is Rejected.

Pune
Date : 28/07/2020

(G.P. Agrawal)
I/c. Additional Sessions Judge,
Pune.

CERTIFICATE

I affirm that the contents of this P.D.F file Order is same word for word as per original Order.

Name of Steno	✚ R.L. Bhunyar (Stenographer Grade-I)
Court Name	✚ G.P. Agrawal Dist. Judge-13 & Additional Sessions Judge, Pune.
Date of Order	✚ 28/07/2020
Order signed by the Presiding Officer	✚ 28/07/2020
Order Uploaded on	✚ 28/07/2020