

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,
AT – NASHIK.

(Presided over by Mr. M. H. Shaikh)

Criminal Bail Application No.1234 of 2022

CNR NO.MHNS010053122022



Vilas Bhaskar Malunekar

Age : 40 years, Occu.: Nil

R/o : Wadivahre, Tal. Igatpuri,

Dist. Nashik.

... Applicant/Accused.

V/S

State of Maharashtra

Through – Wadivarhe Police Station

(C. R. No.I-154 of 2022)

... Respondent/State.

Appearance : Ld. Adv. Shri. Kishor L. Gaikwad for Applicant/Accused.

Ld. A.P.P. Smt. B. N. Petkar for Respondent/State.

Ld. Adv. Shri. Arvind B. Badvar for Complainant.

Shri. R. D. Ahire, P.S.I., Wadivarhe Police Station.

ORDER BELOW EXH. NO.1

(Delivered on 09th December, 2022)

1. This is an application filed under Section 438 of Criminal Procedure Code for grant of pre-arrest bail in connection with C.R. No.154 of 2022 registered Respondent/Wadivarhe Police Station under Sections 406, 420, 467, 468, 504 and 506 r/w 34 of the Indian Penal Code.

2. Read the application and the say filed by the respondent. Heard Ld. Advocate for applicant, Ld. A.P.P. for the State, Ld. Advocate for the Complainant/Bank and the I.O. Perused the police-papers produced for inspection by the I.O.

3. It is alleged by the prosecution that, the applicant and other accused persons applied for Gold loan. The complainant/Bank was having accused Nos.5, 12 & 14 as the Bank valuers and they had certified the purity of the mortgaged Gold ornaments and therefore Bank sanctioned the loan. Thereafter, it revealed to the Bank that the mortgaged Gold ornaments are fake and therefore an inquiry was conducted and thereafter a written complaint was filed to the Police. Police did not take cognizance. Therefore, a private complaint was filed before the Ld. J.M.F.C., Igatpuri, who gave a direction under Section 156 (3) of Cr.P.C.

4. It is the case of the applicant that, he is falsely implicated. He had applied at the instance of accused No.3, who is having Gold ornaments shop. He did not receive any amount. He is the victim of circumstances. Nothing is to be recovered or discovered at his instance. Custodial interrogation of the applicant is not necessary. Ready to abide by the terms and conditions likely to be impose by the Court. Therefore, prayed to allow the application.

5. The respondent objected on the ground that, investigation is at a primary stage. All accused in collusion with each other had cheated the complainant/Bank to the tune of more than Rs.80,00,000/-. The said amount belongs to the public. Investigation is in progress. Custodial interrogation of applicant is necessary. Therefore, prayed to reject the application.

6. Complainant/Bank intervened in this matter and filed their objection and objected on the ground that, there was a collusion in between the applicant and other accused persons and they by mortgaging fake Gold ornaments got sanctioned the loan and did not repay the same. Prima-facie

case is there. Custodial interrogation is necessary. Therefore, prayed to reject the application.

7. Upon hearing and going through the material placed on record, what can be gathered is that, applicant had applied for Gold loan by mortgaging the Gold ornaments. Accused No.5 valued the Gold ornaments and certified to be pure. Accused No.12 & 14 also certified the Gold ornaments to be pure. Thereafter, the new Manager of the complainant/Bank got suspicion about the Gold ornaments. Therefore, a verification was conducted by the third valuer, who opined that the Gold ornaments mortgaged with the Bank is fake. The notices were sent to the applicant. However, he did not repay the loan.

8. In the above back-drop, if we consider the case in hand, the applicant had pointed the finger at accused No.3, who is also having a shop of Gold ornaments at Wadivarhe. There is similar type of case against accused No.3 and it is evident from the police-papers produced for inspection on record. Moreover, the sanctioned amount was credited to the accounts of applicant and other accused persons. Complainant/Bank is having the opinion of the valuer that the Gold ornaments mortgaged by the applicant and other accused persons to be fake. Therefore, this Court finds that, there is a prima-facie case that the applicant alongwith other accused persons have cheated the Bank to the tune of more than Rs.80,00,000/-, which is the public money. The grievance of applicant that, he is the victim of circumstances can not be accepted because the sanctioned loan amount was credited to his account and he had withdrawn it. The loans were also renewed by the applicant and other accused persons. Therefore, they cannot take such a defence now. A through investigation is required in this matter. There might be a racket involved in the said crime. Moreover, it is an

economic crime affecting the Nation at large. Therefore, this Court finds that, there is a prima-facie case and custodial interrogation of the applicant is necessary to know the modus-operandi and whether besides the applicant and accused persons named in the F.I.R., is there an involvement of Bank officials and employees in it. As far as, another person by name Samadhan Nathe is concerned, in investigation if his role is found in the crime, he can be made as an accused. Therefore, this Court finds that, it is not inclined to grant pre-arrest bail to the applicant. In the result, the application fails. Hence, the order.

ORDER

1. Criminal Bail Application No.1234 of 2022 stands rejected.
2. Inform the said order to the I.O.

Place : Nashik.
Date : 09/12/2022

(M. H. Shaikh)
Additional Sessions Judge, Nashik.