IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 532 OF 2015

Neetu Maheshwari w/o Adarsh Singh Kushwa .....Applicant
V/s.
The State of Maharashtra ....Respondent

Mr. A. M. Saraogi for Applicant
Ms. P. P. Shinde APP for the State.
Mr. Prasad Satam, P.I. E.O.W. Unit III, Mumbai.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : AUGUST 12, 2015.

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending her arrest in crime no. 138 of 2012 registered at B.K.C. Police Station. The case was transferred to Economic Offences Wing for further investigation and was renumbered as crime no. 84 of 2012 for offence punishable under sections 420, 467, 468, 471 r/w 120 of Indian Penal Code.

2) Applicant herein had approached the Court of Sessions seeking pre-arrest bail by filing anticipatory bail application no. 626 of 2013. By an order dated 03/05/2013, learned Sessions Judge has rejected the said application. Applicant has approached this Court under section 438 of Code of Criminal

Procedure, 1973 by filing present application. By an order dated 30/04/2015, this Court (Coram: Revati Mohite Dere, J.) granted interim protection as it was represented that applicant was granted interim relief till her application for bail came to be rejected.

3) Heard. Perused papers of investigation.

4) It is the case of prosecution that on 01/06/2012, Nikhil Johari working as Senior Vice President of Edelweiss Trading and Holdings Limited Company (Hereinafter referred as 'Company') filed a complaint to Additional Commissioner of Police, Economic Offences Wing alleging therein that present applicant along with co-accused have committed serious offences. They have cheated the complainant company on the basis of forged and fabricated warehouse receipts on number of occasions. That there was transaction between complainant company and Ganpati Oil and Foods Limited. It is alleged that applicant was employee of Ganpati Oil and Foods Limited. Complainant has alleged that Chairman and Director of Ganpati Oil and Foods Limited had approached the complainant company and had solicited business association with the complainant company. There were four sets of transactions between both the companies extending from month of

July and August 2011 for mustard seed and three other sets of transactions in the month of January and February 2012 for purchase of Sesame seed. It is also alleged that employee of the company Piyush Mangal and present applicant were working as Operations Executives of the said company. Manoj Agarwal was Chairman and C.E.O. And Mr. Hemant Jain was Director and Business-In-Charge. In the F.I.R., complainant has given in all 5 sets of transactions between accused company and complainant company. It is alleged that complainant company was made to believe that sesame seeds and mustard seeds would be purchased, hoarded with the warehouse of the Madhya Pradesh Government. Complainant company had paid huge amounts to the tune of Rs. 9,95,32,800/-. Subsequently complainant company learnt that sesame seeds and mustard seeds were never purchased and they were made to understand that they are purchased and rather in the warehouse. Accused company had furnished forged and fabricated receipts of Madhya Pradesh Government. It is finally alleged that complainant company had suffered losses of Rs. 15,25,11,105/-. The allegation against accused company is that they had produced false and fabricated warehouse receipts. Directors of the said company were arrested in January 2014 & May 2014 and they are enlarged on bail under section 437 of Code of Criminal Procedure, 1973.

5) Learned counsel for the applicant submits that applicant was serving in M/s Ganpati Oil and Foods Limited as an Administrative Head and Brand Administrative Officer. That she had resigned from company on 15/10/2011. Her resignation was accepted by the company with effect from 16/11/2011. According to learned counsel, applicant had gained no benefits. She was simply an employee. That she was not concerned with the transactions between Edelweiss and the accused company. That according to learned counsel, applicant had only discharged her duties as an employee. That applicant had joined as a director of Agri Commex Warehousing and Logistics Pvt. Ltd. Housing and Logistics Private Limited. Applicant had joined as a director of Agri Commex Warehousing and Logistics Pvt. Ltd. on 25/05/2010 and had resigned on 10/12/2011.

6) It is pertinent to note that applicant herein was employee of Ganpati Oil and Foods Limited and at the same time was also director of sister concerned i.e. Agri Commex Warehousing and Logistics Pvt. Ltd. Initially a submission was made that applicant has just passed matriculation. She is not aware of any financial transactions and only by virtue of being an employee

of Ganpati Oil and Foods Limited and director of Agri Commex Warehousing and Logistics Pvt. Ltd., she is being prosecuted by the complainant company. Investigating Officer had recorded the statement of applicant on 02/06/2015 wherein she has specifically stated that she had joined Ganpati Oil and Foods Limited as a part time employee. That she was Brand Representative Officer. Her tenure begins from 01/01/2010 till 16/11/2011. Her responsibility was confining to Gwalior and was related to brand promotional activities. She has denied any communication with complainant company. She has also denied of informing the complainant company about the purchase and holding of sesame or mustard seeds deposited by Ganpati Oil and Foods Limited. She has further disclosed that Piyush Mangal, who happens to be a close relative of Manoj Agarwal, was handling the work of invoicing communication through courier services. She has admitted that she was a director of Agri Commex Warehousing and Logistics Pvt. Ltd. since 24/05/2010 to 10/12/2011. As it is admitted by her that she was director of the company, she was authorized signatory of the other two bank accounts of Agri Commex Warehousing and Logistics Pvt. Ltd. operated in Punjab National Bank. She has denied to have received any money into the bank account of Agri Commex Warehousing and Logistics Pvt. Ltd. through the bank account of Ganpati Oil and Foods Limited. According to her, it is reflected in the bank statement and the Investigating Officer shall look into it. She has given evasive answers and has denied any communication with the complainant company.

7) Upon perusal of papers of investigation, it appears that most of the amount received by Ganpati Oil and Foods Limited were deposited in the account of Agri Commex Warehousing and Logistics Pvt. Ltd. There are entries which show that applicant has directly benefited from the said transactions as the money has been personally withdrawn by her. There are several entries which are as follows:

Sr. No.	Date of Entry	Amount
1	12/07/11	Rs. 40,00,000/-
2	20/07/2011	Rs. 12,00,000/-
3	29/07/2011	Rs. 03,90,000/-
4	03/08/11	Rs. 25,00,000/-
5	04/08/11	Rs. 35,00,000/-
6	09/08/11	Rs. 85,00,000/-
7	10/08/11	Rs. 01,00,000/-
8	16/08/2011	Rs. 05,00,000/-
9	31/08/2011	Rs. 05,00,000/-
	Total	Rs. 2,11,90,000/-

8) Huge amounts were routed through Agri Commex Warehousing and Logistics Pvt. Ltd. and the applicant has benefited from the same. It is pertinent to note that investigating agency has not shown Piyush Mangal as accused or has not even apprehended him. Upon perusal of statement of Piyush Mangal, it appears that according to him, all the transactions were routed through present applicant, that she was responsible in making all the communications with Edleweiss i.e. complainant company. There appears to be a blame game between Piyush Mangal and present applicant. The very fact that applicant has benefited and had withdrawn huge amounts through Agri Commex Warehousing and Logistics Pvt. Ltd. is a clear indication that she is benefited from the said transactions. The fact that she has not co-operated with the investigating agency and she was granted interim relief and has given evasive answers, would not entitle her to grant of pre-arrest bail. The amounts have been systematically siphoned from Ganpati Oil and Foods Limited through Agri Commex Warehousing and Logistics Pvt. Ltd. The very fact that she was operating bank transactions, she was fully aware that the amounts received in the account of Ganpati Oil and Foods Limited are being transferred into the account of Agri Commex Warehousing and Logistics Pvt.

Ltd. and yet she holds that she is not aware of any transactions between 3 companies i.e. complainant company, Ganpati Oil and Foods Limited and Agri Commex Warehousing and Logistics Pvt. Ltd.

9) Upon perusal of papers of investigation, it is further clear that documents were forged and fabricated to the knowledge of present applicant. The possibility that they were fabricated by her in connivance with the directors of the company cannot be ruled out. This is a case which would require custodial interrogation.

10) Learned counsel for the applicant submits that she was a housewife, not knowing the details of financial transactions, which cannot be believed. It is being submitted hat she is a matriculate, however, according to her she is a graduate who has completed her graduation in science faculty. There is no reason for learned counsel for the applicant to seek sympathy on the ground that she is just a matriculate and also it cannot be believed since she was working as Brand Representative Officer of the company.

11) Application seeking pre-arrest bail was rejected in the year 2013, however, applicant had not apprehended arrest. Learned counsel for the applicant submits that investigating agency itself had deferred her arrest on

medical grounds since she had conceived pregnancy, she had gone through medical termination of pregnancy and now she is a mother of an infant child. It is pertinent to note that no documents are placed on record to show that she is a mother of an infant child as on today. No medical case papers are also filed on record. Therefore, it need not be taken into consideration. Applicant had approached this Court only after two years. She had given a letter to the inspector of police and had urged that she has continuous physical problem due to miscarriage of her unborn baby and therefore, she could not attend the office of Economic Offences Wing on the scheduled dates. That letter is addressed to E.O.W. On 20/05/2014. No such records are placed before this Court.

12) Upon perusal of papers of investigation, it is clear that applicant herein was fully aware of misdeeds of company, illegal transactions, modus operandi in which complainant company was being duped. Since she was an employee of Ganpati Oil and Foods Limited and director of Agri Commex Warehousing and Logistics Pvt. Ltd. at the same time, and therefore she feigned ignorance.

13) Learned counsel for the applicant submits that applicant had co-

operated with investigating agency, however, upon perusal of papers of investigation and her statement which was recorded in question and answer form, it is clear that despite the fact that she was beneficiary, she has simply evaded to answer most of the questions. Applicant does not deserve the said protection, in view of the seriousness and gravity of the offence. The very fact receipts of Ware House were forged and fabricated goes to the root of the matter. The said fabricated documents were routed through her is sufficient evidence to deny her pre-arrest bail.

O R D E R

(i) Application, being sans merits, stands rejected.

(ii) Learned counsel for the applicant at this stage has prayed for staying the order for a period of 3 weeks.

(iii) In the interest of justice, the said prayer is granted. Present order is hereby stayed till 01/09/2015.

(SMT. SADHANA S. JADHAV, J.)