IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 828 OF 2015

Jitendra Kumar .....Applicant
V/s.
The State of Maharashtra ....Respondent

Mr. R. V. Govilkar for Applicant
Ms. Rutuja Ambekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 24th JUNE 2015

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 184 of 2015 registered at Antop Hill Police Station for offence punishable under sections 409, 420 & 120 (B) of Indian Penal Code.

2) It is the case of prosecution that on 02/06/2015 Arvind Patre lodged a report at the police station alleging therein that he is working in office of Patent Design. He had been deputed to lodge a report in respect of alleged fraudulent payments made by Pay and Accounts Office. It is alleged that Pay and Accounts officers Shri. Ramesh Parab and present applicant then working as Account Officers have misused their power and drawn cheque of Rs. 2,94,57,737/- in the name of Central Bank of India and therafter had drawn

pay order in the name of one M/s Jay Metal. Officer of Axis Bank suspencted foul play and reported the same to Shri. Rajiv Agarwal who is working as Chief Controller of Patent Design. It is also stated in the F.I.R. that initially upon receiving the said complaint, preliminary enquiry was held and it was found that there has been misappropriation of the funds and hence complainant was directed to lodge the report.

3) Learned counsel for the applicant submits that principal accused Ramesh Parab is absconding. Upon instructions, it is submitted that he has also retired on superannuation.

4) It prima facie appears that he was in habit of issuing cheques without authorization and encashing the same in the name of firms. Be that as it may, in respect of the present applicant, report shows that in the year 2011, Drawing and Disbursing Officer presented a bill dated 26/12/2011 of Rs. 3,00,77,330/- in which net amount of Rs. 2,94,57,737/- after deduction of applicable tax which was payable to M/s GIST Pvt. Ltd. The details of this bill were entered into 'COMPACT' (Software developed by CGA, Ministry of Finance). On 29/12/2011, the cheque was issued, however, due to fluctuations in exchange rates, net payable amount stood reduced to Rs. 2,86,81,431/- and

therefore, the said bill was re-processed and a fresh cheque bearing no. A202527 dated 30/12/2011 was issued in payee's favour namely GIST Pvt. Ltd. As per the information available in the said software, fresh cheque dated 30/12/2011 was encashed by payee on 03/01/2012. While issuing fresh cheque, old cheque bearing no. A202521 dated 29/12/2011 **was not cancelled**, rather it was continued to be shown as outstanding in COMPACT. It is alleged that taking advantage of aforementioned omission, the Charged Officer adopted series of manipulative steps which culminated in fraudulent payment of Rs. 2,94,57,737/-. The original cheque was outstanding in the software and dummy cheque was prepared. This was replaced by another dummy cheque. Second dummy cheque was replaced by a cheque bearing no. A777618 dated 27/04/2015 for an amount of Rs. 2,94,57,737/- through which demand draft of the same amount was issued in favour M/s Jay Metals. The cheque bearing no. A-777618 dated 27/04/2015 was not a computer generated cheque prepared through COMPACT, rather the Charged Officer signed manual cheque so as to defeat the safeguards built into the software for detecting fraudulent payments. The entire process of drawing the cheque and the demand drafts was manipulated. It is clear that manipulative action resorted to by Charged Officer with the willful intention of embezzlement of Government money caused loss to the Government Exchequer to the amount of 2,94,57,737/-.

5) Learned counsel for the applicant submits that applicant had joined the office at Bombay on 31/12/2011. Papers of investigation include a list of cancelled cheques and re-issued manually after 31/12/2011. Learned counsel for the applicant submits that applicant was directed by his superior officer to sign the cheque and applicant had signed the same without verifying the facts and without the knowledge that his senior officer Ramesh Parab would draw demand draft in the name of M/s. Jay Metals. It is submitted that the cheque which was signed by the applicant was signed in the name of Central Bank of India whereas demand draft was drawn at the request of Shri. Parab and therefore, applicant has no role to play in the embezzlement of the said funds.

6) Papers of investigation show a list of cancelled and re-issued manually. Cheque no. A-777571 dated 31/03/2015 pertaining to State professional tax and small amount and these cheques are issued as per CAM-10 and not issued through COMPACT. There are several such cheques. One of them, which was issued on 24/04/2015 was directed to be stopped by the Bank. Cheque bearing

no. A-777610 for Rs. 7,45,149/- dated 24/04/2015 was cancelled. Cheque bearing no. A-771611 for Rs. 8,73,876/- dated 24/04/2015 was issued iin favour of Mohini Digambar Parab. There are several cheques by which fraudulent payments were made. It cannot be said that applicant had no knowledge about the drawing of the said demand drafts and making fraudulent payments, especially when he was working in the accounts department.

7) Learned counsel for the applicant submits that applicant is willing to co-operate with the investigating agency to the best of his capacity. That according to him, this is not a fit case of custodial interrogation since documents are seized by investigating agency.

8) Taking into consideration the gravity of the offence and the fact that amount has been embezzled systematically, it cannot be said that custodial interrogation is unwarranted.

O R D E R

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

(SMT. SADHANA S. JADHAV, J.)

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