IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.605 of 2014

(Rahul Shankarrao Madiwale vs. The State of Maharashtra, through P.S.O. Civil Lines, Akola)

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Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

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CORAM : PRASANNA B. VARALE, J.
DATE : JANUARY 19, 2015.

Heard Mr. Nikhil Tekade, the learned Counsel for the applicant and Mr. S.B. Ahirkar, the learned A.P.P. for the non-applicant/State.

The applicant is before this Court apprehending his arrest in connection with Crime No.154/2014, registered at Civil Lines Police Station, Akola for the offences punishable under Sections 408 and 420 of the Indian Penal Code.

The learned Counsel for the applicant fairly submits that this is the second attempt of the applicant approaching this Court for the relief of pre-arrest bail. He further submits that in an earlier attempt, as this Court found that the applicant before approaching the learned Sessions Judge apprehending his arrest directly approached this Court, and as such the application was disposed of with liberty to the applicant to approach the learned Sessions Judge. The learned Counsel further submits that the applicant accordingly submitted an application seeking pre-arrest bail and the same was rejected by the learned Sessions Judge on 06/08/2014. The learned Counsel for the applicant invited my attention to the F.I.R. of which a copy is placed on record.

Perusal of the record shows that an employee of one private finance company namely M/s. Equitas Finance Pvt. Ltd. (hereinafter referred to as 'the finance company' for the sake of brevity) lodged the report on 06/05/2014. The sum and substance of the report is, the complainant was working as Territory Receivaral Manager and one employee Mr. Sarang Napulkar was the Credit Officer. Sheikh Lal Sheikh Mehtab approached the Company for obtaining the loan for purchase of Commercial Vehicle (Truck). The loan was sanctioned to Sheikh Lal to the tune of Rs.3,20,000/- and a blank cheque was issued. When the complainant found that there is no repayment of the loan amount, he visited Sheikh Lal. Sheikh Lal replied him on a query made by the complainant Sandeepsingh Thakur that he had handed over all the documents including a cheque issued by the finance company to Sarang Napulkar and he was informed by Sarang that all the further progress will be intimated to him. Thus, the complainant found that a mischief was played by Mr. Sarang, who had accepted a blank cheque from Sheikh Lal and by an interpolation, the amount of loan granted to Sheikh Lal was mis-utilized by Mr. Sarang. The learned Counsel for the applicant submits that the report is silent on the aspect of any connection of the applicant with the alleged commission of the offence. The learned Counsel further submits that only on the ground that the applicant is alleged to be one of the person playing mischief in the finance company and received amount to the tune of Rs.2,63,000/- found deposited in his account, the application filed by the applicant for pre-arrest bail came to be rejected. The learned Counsel further submits that apart from this material, there is no material against the applicant. He further submits that the applicant was protected by an interim order of this Court. He further submits that the applicant was and is ready to extend his cooperation in the process of investigation. The learned Counsel further submits that the applicant resigned from the finance company on 21st February, 2014 and at present he is in search of job. He further submits that as the custodial interrogation of the applicant is not necessary, the unfounded custodial interrogation of the applicant would cause prejudice in the career of the applicant, who is searching job for earning his livelihood.

The learned A.P.P. vehemently opposes the application. He submits that in the preliminary enquiry, it is found that there may be mis-appropriation running in to the tune of Rs.1.00 crore. He submits that apart from Sheikh Lal, there are other customers of the finance company, who were also subjected to mischief played by the company officials and the applicant is one of the beneficiary of such misdeeds. The learned A.P.P. submits that the applicant was working with the company as Sales Manager since 23/09/2011 and later on he was promoted to the post of Branch Manager at Akola and tendered his resignation on 21/02/2014. He submits that as the applicant was well aware with the financial matters and more particularly he was the Banch Manager at Akola, the mischief could not have been played without the assistance of the present applicant.

On perusal of the material placed on record, it reveals that the report is lodged on 06th May, 2014. It is not in dispute that the report is lodged against an employee viz. Sarang Napulkar. The material further shows that in the investigation carried out on the lodgment of the report, the only material alleged against the applicant is that, he was the employee for a long period with a company and an amount of Rs.2,63,000/- was deposited in his account. The reply filed by the State is silent on certain material aspect namely the applicant, who had approached the learned Sessions Judge for prayer of pre-arrest bail and the application was rejected on 06/08/2014, the applicant approached this Court in the month of November, 2014 and this Court protected the applicant by order dated 28/11/2014. This Court balancing the interest of the investigating agency permitted the investigating agency to call the applicant as and when required. The perusal of the material shows that from the rejection of the application by order dated 06/08/2014 till the applicant approached this Court, the investigating agency was taking steps with snails pace. Even after the order passed by this Court dated 28/11/2014, there is noting on record reflected in the reply filed by the investigating agency that at any point of time, the applicant was called upon by the investigating agency so as to speed up the pace of the investigation, if at all the agency wanted some progress in the investigation.

Considering this aspect of the matter, in my opinion, the learned Counsel for the applicant has made out a case for protection, as prayed for. The apprehension of the State can be taken care of by imposing certain conditions on the applicant.

In the result, the application is allowed. The interim order passed by this Court on 28th November, 2014 is confirmed with a condition that the applicant to attend Civil Lines Police Station, Akola on fourth Sunday of this month and thereafter on every second and fourth Sunday from 09:00 a.m. to 12:00 noon, till filing of the charge-sheet.

The application is disposed of as such.

JUDGE

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