IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 922 OF 2016

Bapurao S/o. Mahadeo Netake … Applicant.

V/s.

The State of Maharashtra … Respondent.

Mr. Shriram Chaudhari, Advocate i/by Bharat A. Punekar, Advocate, for the Applicant.
Mr. Y. M. Nakhwa, A.P.P. for the Respondent - State.

CORAM : A. M. BADAR, J.
DATE : 06th JUNE, 2016

P.C. :

1 By this application filed under section 438 of the Criminal Procedure Code, 1973, the Applicant/accused, who is the District Manager of Annabau Sathe Development Corporation Ltd., is praying for pre-arrest bail in connection with Crime No. 227 of 2015 for the offences punishable under sections 408, 409, 419, 420 read with section 34 of the Indian Penal Code, registered with the Sadar Bazar Police Station, Solapur, at the instance of his successor namely District Manager - Laxman Abhimanyu Kshirsagar.

2 Heard learned counsel appearing for the Applicant/Accused. By pointing out the FIR lodged on

12.06.2015 by the successor of the Applicant, the learned counsel for the Applicant argued that the name of the applicant is not impleaded as an accused and no role was attributed to him in the alleged offence. He further argued that ultimately on 02.05.2016 in the remand report submitted to the learned JMFC, the applicant is shown as accused no.5 and that too without attributing any role to him in the crime in question. The learned counsel for the applicant submitted that there is no iota of evidence against the applicant/accused in the alleged offence.

3 As against this, the learned APP, by relying on the papers of investigation, has pointed out the order dated 09.06.2014, sanctioning loan in favour of Sunil Subhash Chavan, and argued that the Applicant has not taken proper care to get the vehicle hypothecated to the Corporation.

4 Perusal of the FIR dated 12.06.2015 does not attribute any role to the applicant/ accused in the crime in question. The prosecution case is as reflected in the remand report submitted to the learned JMFC by the investigating officer, which is on record at page 28. According to the prosecution case, that Sunil S. Chavan had never applied for loan for purchase of the vehicle. However, still the Chairman of the Corporation had sanctioned loan in favour of Sunil Chavan and directed Mrs. Harshada Arun Bendre, an

employee of the corporation to hand over the cheque for disbursement of that loan to accused Sunil Balvant Bachute. On receipt of the order, sanctioning the loan, the Solapur office of the Corporation prepared a cheque in favour of the Kaizen Auto Cars Private Limited, Solapur and in terms of the instructions of head office, Prashatn Satava Telang (Office Assistant of the Corporation) had handed over that cheque to the co-accused Sunil Balvant Bachute. It is seen from the remand report that all these acts were done pursuant to the instructions of Ramesh Kadam (the then Chairman of the Corporation). Accordingly though the loan amount was sanctioned in favour of Sunil S. Chavan, the co-accused/owner of the Kaizen Auto Cars Pvt. Ltd. had delivered the vehicle to the co-accused Sunil B. Bachute.

5 Papers of investigation shows that on 09.06.2014 Managing Director of the Corporation had sanctioned loan in favour of Sunil S.Chavan. It is seen that cheque for disbursement of that loan amount was drawn in the name of Kaizen Auto Cars Pvt. Ltd., and the same was handed over to the co-accused Sunil Balvant Bachute on instructions of the Managing Director. Surprisingly, then the Managing Director is not arraigned as accused in the instant case and the learned APP was enable to give any plausible explanation for the same. Perusal of the papers of investigation does not show any criminal liability of the applicant/accused who was then

working as District Manager with the Corporation. Instructions of the Managing Director were complied with by the Solapur Office of the Corporation and that too by the employees like Harshada Arun Bendre and Prashant Satava Telang.

6 It was argued by the learned APP that proper procedure of hypothecation of the vehicle with the Corporation was not followed. At the most, that can be a dereliction of the duty by the District Manager, making him liable for departmental action. Prima facie, no element of criminality is seen so far as the present applicant is concerned. Hence, there is no impediment in allowing this application and therefore the order :-

ORDER

i. Anticipatory bail application is allowed.

ii. The Applicant/accused in Crime No. 227 of 2015 for the offences punishable under sections 408, 409, 419, 420 read with section 34 of the Indian Penal Code, registered with the Sadar Bazar Police Station, Solapur, in the event of his arrest, be released on bail on executing the PR bond in the sum of Rs. 5,000/- and on furnishing surety the like amount.

iii. As condition of this order, the Applicant/accused should attend the investigating officer on 16th June, 2016 from 11 a.m. to 12 noon and thereafter on 21st June, 2016.

iv. As a condition of this order, the Applicant/accused is directed that he shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the prosecution evidence in any manner.

v. The Applicant should not commit offence of similar nature.

vi. The Applicant should co-operate for expeditious disposal of the trial.

(A. M. BADAR, J.)

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