IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO.1084 OF 2016

Rupesh Shashikant Rane ... **Applicant**
Versus
The State of Maharashtra ... **Respondent**

WITH

ANTICIPATORY BAIL APPLICATION NO.924 OF 2016

Venkatraya Manjunath Kudva ... **Applicant**
Versus
The State of Maharashtra ... **Respondent**

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Mr.Rajendra J.Rathod, Advocate for Applicant in ABA No.1084/ 2016.

Mr.Deepak Kushwaha i/b Vijay Kanthe, Advocate for Applicant in ABA No.924/2016.

Mr.Avinash H.Fatangare, Advocate for the Intervenor in APPP 507/16.

Ms.S.S.Kaushik, APP for the Respondent/State.

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CORAM : P. N. DESHMUKH J.

DATED : 2nd AUGUST 2016.

P.C.

1 Heard learned counsel for the parties.

2 Accused in both the applications involved in Crime No.125 of 2016 registered at Parksite Police Station on 13th April 2016 for the offence punishable u/s.424, 408, 465, 467, 468, 471 r/w Section 34 IPC and under Section 66(c)(3) of Information Technology Act 2000, had applied for Anticipatory Bail.

3 Learned counsel for the applicant – Rupesh Rane has put forth that he is falsely involved, and in fact, more than 1 ½ months prior to registration of crime, he has submitted his papers with the firm and had resigned. On facts, it is contended that in 2005, applicant joined with the Company known as “Piramal Enterprises” as Assistant Manager and continued for more than 10 years. As a Manager, he was required to contact various clients and to obtain purchase orders for the goods manufactured by said Company, which orders were then placed before Logistics Department where they were processed and were forwarded to Finance Department which would submit quotation to the prospective buyer, and thereafter, buyer on approving the price, the purchase order would be processed by Finance Department, and the goods were then despatched to the buyer and on effecting delivery, Finance Department would follow for payments which were made by cheques only. Thus, it is submitted that role of applicant was thus only to obtain orders which, in turn were submitted to Logistics Department.

4 Learned counsel for the applicant during the course of hearing has tendered on record two flow charts in support of above, submissions and has submitted that applicant is in no way involved in

the process, except to obtain purchase orders. It is also submitted that applicant is unnecessarily harassed by involving him in offence by his immediate superior Mr.Furtado who was General Manager, and in fact, because of humiliation provided by him to applicant, he had submitted his resignation by issuing three months notice to the Company well in advance in the month of November 2015. It is contended that the three months period would come to an end on 19^{th} February 2016, and on that day, as applicant went to obtain his relieving order from the Company office, same was not issued contending there was some complaint stated to be received by the Company from that Company based at Indore viz. Simran Farms Limited. Thus, his relieving order was kept on hold and his further duties were also not clarified and in fact, his gratuity amount has been forfeited as per notice issued to applicant on 27^{th} July 2016.

5 Thus, in brief, it is the case of the applicant that he was only concerned with purchase orders from his clients and complaints of any kind with regards to the quality of goods supplied to the customer etc. was the concern of the Company being manufacturer and supplier of such goods.

6 Learned counsel for the applicant by referring to the contents of report had contended that allegations made therein are not consistent as according to the learned counsel, the complainant changed his version involving applicant Venkatraya to have prepared 31 bills, allegedly on the instructions of present applicant, thereby cheating the Company to the extent of Rs.2,62,22,250/- by selling 6785 kgs of

Vitamin A pollinated. Further allegation is that of applicant selling free goods worth Rs.40,56,000/- with regard to 105 kgs of Vitamin A of which bills are stated to be prepared by co-accused Venkat Kudwa. On instructions from applicant to Rupesh. The third allegations in the report is with reference to overdue statement of Company that 465 kgs of Vitamin A was sold by the Company to five purchasers who had not paid amount to the extent of Rs.9,24,200/- and that said amount must have been received by applicant. With regard to said allegation, it is submitted that in fact, it is for the Company to discuss with the concerned Companies with whom such bills are pending. Lastly, it is contended that during the notice period of three months or till the last date of his working, there was not a single inquiry held or conducted by the office bearers of the Company, and has thus contended that as the entire allegations are based on documents, no custodial interrogation is necessary. Thus, it is submitted that Application be allowed by imposing suitable conditions upon the applicant.

7 Learned counsel for the applicant Ganpat on the other hand, had submitted that he, in his capacity as a clerk in same Company working under applicant Rupesh has simply obeyed his directions as Rupesh was his immediate boss and as such, has no intention to commit cheating as alleged. It is further submitted that if said applicant would have intentionally prepared any false bills as stated in the complaint, he would have not kept said data in the computer, but would have deleted the same and in that respect, it is submitted that applicant in fact since has obtained VRS in October 2010, considering his record, was retained in service by the Company

from the second day itself, and though his name is mentioned in the report, he cannot said to be in any way involved in the present crime, and has thus prayed that the application be allowed, who after registration of offence is stated to have attended the Investigating Officer and had co-operated with the investigation and his statement is also recorded.

8 Learned APP opposed the application on the ground that there is sufficient material collected against applicant Rupesh and his custodial interrogation is said to be necessary with reference to allegations made in the report. It is submitted that applicant Rupesh is involved in a serious offence wherein by preparing false bills, he has sold goods manufactured by the Company in false scheme and siphoned huge amount in the name of some bogus Company, which in fact, is stated to be not in existence.

9 I have perused the case diary, wherefrom the statements of witnesses, it reveals that applicant Rupesh had informed the prospective buyers that if they need goods, sold through him under the name of "Piramal Enterprise", they will have to pay in cash, and about such payment, he will make some adjustments with the Company, and accordingly, one such prospective buyer who is involved in business of feed raw material agreed to the proposal put forth by applicant Rupesh, and on few occasions, had purchased goods manufactured by Piramal Enterprise on 7/12/2015, 8/12/2015 and 11/12/2015 weighing between 100 kgs, 150 kgs at Rs.9,95,000/- and made payment to Rupesh by cash. From other statements on record, it further reveals

that during the same period, he was in contact with persons who are working in similar business and was inquiring with them if there were any Companies to whom he can supply the goods, which will be supplied by him only after such companies would make payments by cheques, and after he obtains his commission. It further reveals that on getting in contact with some persons, he provided details of BioPharma Company having address thereon. From further statement, it further reveals that accordingly applicant Rupesh indulged into such acts and thereby cheated Piramal Company.

10 Having considering involvement of applicant Rupesh as aforesaid, I find substance when it is submitted that Custodial Interrogation of said applicant is necessary. However, having considering involvement of applicant no.2, his application is liable to be allowed by imposing conditions. Hence, following order :

O R D E R

(i) Anticipatory Bail Application No.1084 of 2016 filed by Rupesh Rane stands rejected.

(ii) In the event of arrest of applicant Venkatraya in ABA No. 924 of 2016, he shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in like amount.

(iii) Applicant, while on bail, shall attend Investigating Officer on 8th August 2016 to 10th August 2016 from 10.00 am to 12 noon, and thereafter, as and when called by the Investigating Officer, till filing of charge-sheet.

Both the applications are accordingly disposed off.

(P. N. DESHMUKH J.)