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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1116 OF 2015

Santosh Shankar Ingle ..Applicant.
Vs
The State of Maharashtra ..Respondent.

Mr Prashant Sawant for the applicant.
Mr Pravin Chavan, Special P.P. a/with Smt. S.S.Kaushik, APP for the State.

CORAM : A.S.GADKARI, J.
DATE : 24th FEBRUARY, 2016

P.C.

1) The applicant is apprehending arrest in CR No. 336 of 2015, dated 18.7.2015 registered with State Crime Branch, Konkan Bhawan, Navi Mumbai for the offences punishable under sections 406, 408,420, 465,467, 468,471, 384, 120(B) read with section 34 of the IPC and sections 7, 13 (1) (c) of the Prevention of Corruption Act, 1988.

2) The prosecution case, in brief, is that the Member of the Maharashtra State Legislative Assembly, Dr Sudhakar Bhalerao raised a Legislative Assembly Question (LAQ) on

22.12.2014, on the floors of the Assembly about the misappropriation and defalcation of the funds of the Government by the then Chairman of Sahitya Ratna Lok-Shahir Anna Bhau Sathe Development Corporation (for the sake of brevity, the said “Corporation”). The applicant was appointed as a Chairman of the said Corporation on 13.8.2012 and was removed from the said post by the Government on 22.12.2014. On the said LAQ the concerned Minister for Social Justice Department gave assurance to the Members of the Legislative Assembly that the said allegations would be enquired into through the State CID. Accordingly, after following the due procedure, Mr Sanjiv Ghadge, the Deputy Superintendent of the Police, Crime Branch was appointed as an Enquiry Officer. The said Officer conducted the inquiry into the allegations of misappropriation of funds given by the State Government to the said Corporation. The said Enquiry Officer after conducting the preliminary enquiry submitted his report to the concerned Authority about his findings. It was revealed during the course of the enquiry that there was misappropriation and/or defalcation of the huge funds of the Corporation to the tune of Rs. 147 Crores. In pursuance of the said report submitted by the concerned Officer, the present FIR is registered against the applicant and other accused persons. After lodgment of the FIR by the enquiry officer, under the directions of the Competent Authority, the present Investigating Officer has been appointed to investigate the crime.

The record discloses that after completion of part of investigation, the Investigating agency has filed charge-sheet as against the principal accused, namely Ramesh Kadam and some of the co-accused persons. It further appears from the record that further investigation with respect to the present crime is still being carried out.

3) The FIR lodged by Mr Sanjiv Ghadge mentions that the said Corporation is established by the Government for the benefit of the persons from the Matang community and its 12 sub casts. The funds to the said Corporation are provided by the Government of Maharashtra. That the Government of Maharashtra has allocated certain funds to the said Corporation.

It is the further prosecution case that after receipt of the funds from the Government of Maharashtra, the then Chairman and the principal accused in the present crime, in conspiracy with other accused persons, misappropriated the funds for their personal benefits. It is further the prosecution case that certain properties are also purchased out of the said funds.

The FIR further mentions that the present applicant was working as Managing Director of the said Corporation. It is the precise allegation against the present applicant as per the FIR that the applicant in conspiracy with the principal accused and the Chairman of the said Corporation Shri Ramesh Kadam diverted a sum of Rs.10 Crores in favour of Joshaba Madhyavarti Gramin Sahakari Sanstha (a Co-operative Society) and kept on record the forged and fabricated documents pertaining to purchase of 400 Mahindra Maximo motor vehicles. It is stated, by indulging into the said act of commission and/or omission the applicant has committed criminal breach of trust of the said Corporation. It is further stated in the said FIR that the applicant in conspiracy with other accused persons prepared the resolution dated 8.1.2013 thereby taking the decision to purchase the land admeasuring about 2 acres at Aurangabad at the cost of 10.75 Crores. The said land was ostensibly purchased for a training institute for the students belonging to Matang community. That from the said 10.75 Crore of Rupees, one acre land belonging to co-accused Pawandeep Singh Kohli shown to have been purchased. Out of the said total two acres of land, only 20 ares of land was purchased in the name of the Corporation and the 1.5 acres of land was, in fact, purchased in the name of Mr Ramesh Kadam, the co-accused. It is stated in the said FIR that the principal accused Ramesh Kadam in conspiracy with the officers and/or employees of the Corporation has committed the said crime. In the premise the FIR was lodged.

4) The learned counsel for the applicant submitted that the statement of the applicant has been already recorded by the Investigating Agency on 16.5.2015 (i.e. prior to lodgment of FIR in preliminary enquiry) and the applicant has given his detailed explanation. He further submitted that the

house search of the applicant was effected by the Investigating agency on 22.7.2015 and it is mentioned in the said panchnama that except the documents seized by the police no other documents pertaining to the present crime were found at the residence of the applicant. The learned counsel for the applicant then submitted that the present offence is entirely based on documents and for that the custodial interrogation of the applicant is not necessary. That the documents pertaining to the present crime have already been seized and/or taken in the possession of by the investigating agency and no further seizure is necessary. He further submitted that the applicant has retired from the said Corporation. That the applicant is about 60 years of age as of today. That the applicant in pursuance of the directions of this Court has attended the Investigating officer and has co-operated during the process of investigation. He lastly prayed that the applicant may be protected by way of pre-arrest bail.

5) The Investigating Officer has filed an affidavit dated 12.2.2016, thereby placing on record the evidence collected by

the Investigating agency and role and/or involvement of the applicant in the present crime. The learned Special Prosecutor appearing for the State of Maharashtra vehemently opposed the application. He submitted that though the applicant was earlier interrogated by the investigating agency, he did not co-operate during the process of investigation. He submitted that the applicant did not reveal the various aspects which the investigating agency is required to know while unearthing the entire truth behind the crime as the applicant has played vital role in the entire crime. He, therefore, prayed that the present application may be dismissed.

6) I have perused the documents annexed to the application and the affidavit dated 12.2.2016 filed by the Investigating Officer. It is to be noted here that the applicant was working as the Managing Director of the said Corporation. It is the allegation of the Member of Maharashtra State Legislative Assembly that during his tenure as Managing Director, huge amounts allocated to the said Corporation have been misappropriated or defalcated by then Chairman (co-

accused) in connivance and/or in conspiracy with the office bearers and the employees of the said Corporation. The investigation carried out till date reveals that the amounts so defalcated are more than 300 Crores. Those are the funds of the Government of Maharashtra and allocated to the said Corporation for the upliftment of the persons, particularly belonging to the Matang community and its sub casts. The record further discloses that at the time of conducting the house search of the applicant RC book of Scorpio vehicle bearing No. MH-20-CU 7171 was seized. The said car was registered in the name of Pawandeep Singh Kohli, a co-accused in the present crime. It is the specific case of the prosecution that when the amount of Rs.10.75 Crores was sanctioned in pursuance of the Board of Directors meeting held on 8.1.2013 for purchase of two acres land at Aurangabad for construction of a building for students of Matang community and other Tribes, a substantial amount has been diverted in the account of the said Pawandeep Singh Kohli. It is the specific prosecution case that out of the said two acres of land one acre of land was owned by the said

Pawaneep Singh Kohli.

7) It is further revealed during the course of investigation carried out till date that, the applicant in collusion with the principal accused signed the various negotiable instruments thereby diverting funds of Rs. 34 Crores in faour of Joshaba Sahakari Sanstha. That the said fund was subsequently misappropriated by the accused persons. The accused Pawandeep Kohli gave a cash of Rs.18 lakhs to co-accused Kamlakar Takawale in lieu of demand draft. It is further revealed that without the sanction from the Government and in contravention of the procedure, 31 persons have been illegally appointed by the applicant and the co-accused in the said Corporation, as staff members. It is further revealed that the applicant in pursuance of criminal conspiracy has misappropriated an amount of Rs.2.5 crores under the garb of purchase of computers. It is further revealed during the course of investigation that in pursuance of the criminal conspiracy, the applicant has prepared a forged resolution bearing No.82/12 dated 26.3.2012 in respect of the amount of loan of Rs.45

crores to the Spinning Mill and has committed an offence under section 465 of the IPC.

8) The various aspects pertaining to the role and the involvement of the applicant in the widespread conspiracy and defalcation of huge amounts of the Government of Maharashtra has to be investigated by the police and the same is not possible without custodial interrogation of the applicant.

After taking into consideration the enormous gravity of the offence and serious allegations against the applicant, I am of the opinion that this is not a fit case to grant pre-arrest bail to the applicant. The application is accordingly dismissed.

(A.S. GADKARI, J.)