IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1492 OF 2016

Anil Ashok Kulkarni .....Applicant

V/s.

The State of Maharashtra ....Respondent

Mr. Aniket Nikam i/b Mr. Aashish Satpute Advocate for Applicant.
Ms. Veera Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : SEPTEMBER 8, 2016.

PC :

1) Heard. This is an application under section 438 of the Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 327 of 2016 registered at Bhadrakali Police Station, pursuant to a direction under section 156 (3) of the Code of Criminal Procedure, 1973. Applicant is being prosecuted for offence punishable under sections 406, 409, 420, 504, 506 of the Indian Penal Code.

2) It is the case of the prosecution that complainant Ravindra Bartakke filed a complaint before the Judicial Magistrate First Class at Nashik against the present applicant alleging therein that present applicant was working as

manager in the firm run by him in the name and style of Arti Distributors. That the complainant had full faith in the applicant. It is alleged that complainant had invested Rs. 80 lacs in the firm. That on the request of applicant, an amount of Rs. 80 lacs was deposited in his personal account. He was informed by the applicant that there is no sufficient space to keep the material in the office and therefore, had sought permission to keep the material in his house. It was subsequently revealed that in fact the material was only worth Rs. 6-8 lacs. That the applicant had denied the misappropriation and hence, according to the complainant, applicant has committed offence under sections 406, 409, 420, 504, 506 of the Indian Penal Code.

3) The learned counsel for the applicant submits that in fact, the employer would not oblige the employee by depositing the amount of Rs. 80 lacs in his personal account. It is moreover submitted that applicant had resigned from the services of the complainant and had started an independent business of a similar nature and due to business rivalry, applicant is being prosecuted.

4) Papers of investigation would reveal that the complainant had initially complained of misappropriation for a sum of Rs. 80 lacs by the applicant and

subsequently had submitted that complainant had given vouchers of Vodafone Company worth Rs. 60 lacs to the applicant. The invoice was filed on record. It is submitted that in fact, there is no evidence on record which would indicate that the applicant had misappropriated the amount of Rs. 80 lacs. It is further pertinent to note that complaint is filed on 15/06/2016, although, applicant had resigned from the services of the complainant. A notice was issued to the applicant on 18/12/2015. Applicant had filed a report at the police station and no action was taken and therefore, on 21/07/2016, a complaint was filed. The learned counsel for the applicant rightly submits that there is an inordinate delay in initiating prosecution and there is no plausible explanation for the same.

5) In view of this, it appears that the custodial interrogation of the applicant would not be imperative. However, it is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

O R D E R

(i) Application is allowed.

(ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R.

bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like amount.

(iii) Applicant shall report to the concerned police station on 4 consecutive Saturdays, commencing from 17/09/2016, between 10.00 a.m. to 12.00 noon.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)