IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1501 OF 2017

Irfan Hamjuddin Nadaf… .. Applicant
vs
State of Maharashtra .. .. Respondent

Mr.Ganesh Bhujbal for Applicant
Ms.P.P.Shinde Additional Public Prosecutor
for State-Respondent

CORAM : T.V.NALAWADE, J
DATE: 29 AUGUST 2017

P.C.

1. The Application is filed for relief of anticipatory bail in C.R.No.41 of 2016 registered in Kodoli Police Station Taluka Panhala District Kolhapur for offences punishable under sections 454,380,120(B), 116, 167,411 r/w 34 of IPC.

2. Both sides are heard.

3. The papers of investigation were made available for the perusal of the Court.

4. The crime is registered on the basis of a report given

by one Zunjhar Madhavrao Sarnobat. According to him, he had kept the cash amount in the compound of his office situated at Warna Nagar and the said amount was kept by him as he is in business of development. The amount was kept in safe which was having lock. He left the place on 28.2.2016 for other station. On 15.3.2016 his relative one Ashutosh Patil realized that somebody had broken open the premises and the amount kept by the first Informant was stolen.

5. The material collected shows that on suspicion, on 12.3.2016 one Mohiddin Abubakar Mulla was taken in custody by Vishrambaug Police, Sangli under section 41 of the Criminal Procedure Code, 1973. The cash amount of Rs.1.29 lacs was found on his person and during interrogation it revealed that he had committed the aforesaid offence at Warna Nagar. After receiving the information from Mulla Sangli police took Mulla to Warna Nagar and then report in the present crime came to be given. The said Mulla was being shown as arrested in the present crime.

6. In the present crime, other persons like wife of Mulla, one Vinayak Jadhav, one Sandeep Toraskar and one Mahadeo Gole are shown as accused. The material collected shows that it was the plan of Sandeep Toraskar resident of Kolhapur to commit the crime. Tip about the presence of the cash amount was given by Mahadeo Gole from Kodoli, Taluka Panhala and then Mulla had committed the offence by joining hands with Vinayak Jadhav and Irfan Hamjuddin Nadaf the present Applicant. The present Applicant was working as a Police Constable in Sangli at the relevant time.

7. The material collected against the present Applicant shows that he had planned the offence of theft at the aforesaid place. There is record of such interrogation. Then, there is record of CDR showing the location of the present Applicant and that of Mulla and Vinayak Jadhav at the same place at the relevant time and there is also record to show that the present Applicant was in touch with Mulla and Vinayak Jadhav for committing the crime. Though the amount of Rs.86,000/- is shown to be transferred as his consideration in the crime in his

account, it can be said that the amount is much more and to ascertain the exact amount which came to his share, the custodial interrogation of the Applicant is a must. The present crime cannot be considered in isolation. Subsequently, two more reports were given by the same first Informant and two more crimes came to be registered. There is a clear possibility that most of the amount or all the amount was black-money. Initially, Sarnobat informed that he had collected money by selling some property. An amount of Rs.3.14 crores was shown to be stolen and the amount of more than Rs.1 crore was shown to be found at the place where the amount was kept by Sarnobat. Subsequently, he gave a report that there was much more amount which was more than Rs.13 crores. He then made allegation against Police Officers from Sangli who were involved in the investigation of present offence that they had taken away the remaining amount and that virtually they had committed the offence of theft or dacoity by taking away the amount which was there.

8. This Court has rejected the Anticipatory Bail

Application of the Police Officers who are involved in the remaining two crimes. The present Applicant was also working as a Constable and it can be said that he used his brain for the offence of theft committed by Mulla. Due to his post, it can be said that he has connection with other two crimes registered on the basis of the report given by Sarnobat. Surprisingly, the amount of more than Rs.8 crores as per the version of Sarnobat is not yet recovered. That amount needs to be recovered. This Court has already observed in previous Order that the source of money needs to be traced and that there is a clear possibility that it was black-money. This Court hopes that the Investigating Officer acts honestly and sincerely in the present matter as the conduct of Police Officers like the present Applicant involved in the matter has caused damage to the reputation of the police machinery. It can be said that the present Applicant had virtually formed a gang-racket for commission of the offence and it was a pre-planned offence. When black-money is involved, persons who own the money hesitate to disclose the real and correct information and that exactly happened in the present matter. Fortunately, crimes are not now registered.

9. Thorough investigation needs to be made in the matter like the present one and the custodial interrogation of the present Applicant is a must.

10. From most of the persons who are shown to be involved in the present offence of theft, the amount is recovered and in the account of the present Applicant, the aforesaid amount was shown to be deposited at the relevant time.

11. Due to these circumstances, it cannot be said that there is no material at all against the present Applicant for seeking his custodial interrogation.

12. In the result, the Application stands rejected.

(T.V.NALAWADE, J)