

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1667 OF 2017

Ravindra D. Bakre ...Applicant.
vs.
The State of Maharashtra ...Respondent.

Mr.Subhash Jha i/by Law Global for the applicant.
Mrs. Rutuja Ambekar,APP. for the State.

CORAM : A.S.GADKARI, J.
DATE : 29th September, 2017

P.C.

1. The applicant is apprehending arrest in CR No.125 of 2017 dated 7.5.2017 registered with Satpur Police Station, Nashik under Section 408, 109, 120B of the Indian Penal Code.
2. Heard the learned counsel for the applicant and the learned APP. Perused the documents annexed to the application and the record of investigation produced by the learned APP.
3. The first information report is lodged by Shri. Rajabhau Vasudeo Kale, Manager of Maharashtra Industrial Development Corporation, Satpur, Nashik (hereinafter referred as "MIDC"). It is stated that Shri. Nanabhau Mandavade is the Assistant Regional Manager of Satpur M.I.D.C. Area. That, a file pertaining to Plot Nos. E-1 to E-4 owned by M/s. Precision Industries, a Partnership firm having partners Shri. Indrapalsingh Sahani and others was maintained by the said MIDC. That, on 13.10.2016 the said Shri. Mandavade realized that about 192

pages from the said file of Plot Nos. E-1 to E-4 are missing from the record of MIDC. It is further stated that the said documents are relating to the proceeding for recovery of sub-tenancy amount pertaining to the said plot of land. That, on 28.10.2016 a complaint was already lodged with Satpur Police Station in that behalf. That, during the intervening period when the search of the said document was being taken, on 2.5.2017 in the afternoon a Peon noticed a file in sealed enveloped on the sofa of the said office. The said Peon brought the said fact to the notice of Smt. Hemangi Patil, Regional Manager of the said Corporation. It is specifically stated that when the said file of M/s. Precision Industries was in the custody of the Assistant Regional Manager Shri. Mandavade, the applicant herein with some unknown persons without adopting procedure and taking permission from the said office and for the purpose of personal gains has misplaced those documents and in furtherance of the directions issued by the Regional Manager, the present crime is registered.

4. The learned counsel for the applicant submitted that there is a discrepancy in number of documents mentioned at Sr. No.1 to 8 in the first information report and the explanation given by the applicant in response to the show cause notice issued by his employer and therefore as of today the informant has not ascertained the exact number of pages which are alleged to have been removed by the applicant from the record. He further submitted that Section 405 of the Indian Penal Code

which defines criminal breach of trust does not take into its compass documents/missing papers and therefore, missing papers cannot be termed as property to attract Section 408 of the Indian Penal Code. That the applicant in his representation dated 15.5.2017 has stated that he is diabetic patient and it is difficult for him to attend the Investigating Officer with frequent intervals. He further submitted that the applicant is having unblemished track record in his past 25 years of service as Surveyor and it is at the instance of one entrepreneur namely Shri. Choria to whom the applicant refused to oblige by performing some illegal act, the applicant has been implicated in the present crime at the instance of said Mr. Choria in connivance with the police officers. He submitted that therefore, the observations of the Supreme Court mentioned in Para 87 in the case of Siddharam S. Mhetre vs. The State of Maharashtra and others reported in (2011) 1 SCC 694 are squarely applicable to the present case. He therefore, submitted that the custodial interrogation of the applicant in the present crime is not necessary as the investigation in the present crime involves documentary evidence and in view of decision of the Supreme Court in the case of Joginder Kumar vs. State of U.P. and others reported in (1994) 4 SCC 260 custodial interrogation of the applicant be avoided. He therefore prayed that the applicant may be granted pre-arrest bail.

5. The record indicates that before lodgment of the first information report, the M.I.D.C. has conducted a preliminary enquiry

wherein it was revealed that on 12.10.2016 which was a holiday the applicant went to the office and collected certain papers and thereafter immediately on the next day it was noticed by Shri. Mandavade, Regional officer that the papers pertaining to the said Plot Nos. E-1 to E-4 relating to charges receivable towards the sub tenancy in favour of Inderpal Singh Sahani(co-accused), the Higher Authorities from the M.I.D.C. have recorded a categorical finding that missing of important papers in the file is a serious thing and the applicant on 17.10.2016 and 20.10.2016 had assured the said authorities that he will produce the said documents however, till date the applicant has failed to do so.

6. It is to be noted here that as per the record of investigation after the M.I.D.C. realized came to the conclusion that, the owner of the said plot Mr. Inderpal Singh Sahani (co-accused) was and is required to pay Rs.1,45,71,628/- towards the charges of sub-tenancy for the said Plot Nos. E-1 to E-4 in the month of September 2016 the applicant from 1.10.2016 to 2.5.2017 was continuously in contact with the said co-accused on their respective mobile phones. The CDR record clearly indicates that the applicant and the said co-accused were in conversation with their respective mobile numbers for a long duration. The Maharashtra Industrial Development Corporation has specifically informed the Investigating agency that due to misplacement of the said relevant documents the plot owner of the said property namely Inderpal Singh Sahani (co-accused) will be benefited from the non recovery of the

said amount of Rs.1,45,71,628/-.That on 6.10.2016 the Dy. Chief Executive Officer of the Maharashtra Industrial Development Corporation informed the Regional Manager of M.I.D.C., Satpur to recover the said charges from Inderpal Singh Sahani(co-accused) with intimation to co-accused Inderpal Singh Sahani and thereafter on 12.10.2016 which was a holiday, the applicant went to the office and collected certain papers. The CCTV footage of the ingress and egress of the applicant prima facie makes it clear that the applicant was carrying a bag. That, on 13.10.2016, Mr. Mandavade went to the office for preparing a report pertaining to the said property and when he found that the relevant papers pertaining to the sub tenancy charges of the said Plot Nos. E-1 to E-4 are missing from the said file. The record further indicates that on 14.10.2016 the applicant told to the said Mr. Mandavade and other Officers of the M.I.D.C. That, he will search for the file. The record further indicates that taking un-due advantage of the said situation that papers pertaining to the said plots are missing from the record of M.I.D.C., the co-accused Inderpal Singh Sahani has filed a writ petition in this Court questioning the charging of said amount of Rs.1,45,71,628/- and for production of record pertaining to the said property. It thus clearly appears to me that the applicant in connivance with Inderpal Singh Sahani with a view to get benefit to him has caused disappearance of the said record from the Office of M.I.D.C. The record further indicates that on 2.5.2017 an envelope containing certain papers was found in the

M.I.D.C. Office Satpur, District Nashik which pertains to the said property however, most of the important documents regarding levy of charges of sub-tenancy are still missing. It prima facie appears that the applicant is the preparator in the present crime and has caused disappearance of the said papers from the file of M.I.D.C. pertaining to said Plot Nos. E-1 to E-4 and unless and until the applicant is custodially interrogated the entire truth behind the crime will not be unearthed. The custodial interrogation of the applicant is also necessary for the recovery of the missing papers from the file of Plot Nos. E-1 to E-4 and for ascertaining the other names of the persons who removed the pages and the benefit derived by the applicant.

7. After taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant cannot be protected by way of pre-arrest bail.

Application is accordingly rejected.

8. At this stage, Mr. Jha, the learned counsel appearing for the applicant submitted that the applicant has been protected by this Court by its order dated 22.9.2017 till date and the said protection be extended by further period of two weeks from today with a view to enable the applicant to approach the Apex Court. At the request of Shri. Jha, learned counsel for the applicant, interim relief granted earlier by this Court is extended by two weeks from today.

(A.S. GADKARI, J.)