IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (ABA) No. 80 of 2019

Dr. Sameer Paltewar
Vs.
State Through P. S. Sitabuldi, Nagpur City.

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Mr. Sunil Manohar & Mr. Avinash Gupta, Senior Counsel for applicant along with Mr. Atharva Manohar & Akash Gupta for the applicant.
Mr. V.P. Maldhure, APP for non-applicant.
Mr. Shyam Dewani, Advocate for the complainant.

CORAM : MANISH PITALE, J.

DATED : JULY 11, 2019

The applicant herein has approached this Court apprehending arrest in connection with FIR dated 22/1/2019, filed against him for the alleged offences under Sections 420, 406, 465, 467, 468, 471 and 120-B R/w 34 of the Indian Penal Code.

2. The allegations in brief against the applicant are that being one of the Directors of a company, VRG Healthcare Private Limited, running a hospital called Meditrena Hospital, Nagpur, he indulged in various activities of fabrication of documents and misappropriation of huge amount of money, resulting in the said offences. The backdrop of filing the report, leading to registration of FIR, is that initially the

complainant, the applicant and one Mr. Muttemwar were holding shares in the company wherein the complainant was holding majority shares. Thereafter, composition of share holding changed and a situation came where the applicant was holding 67% of share and the complainant was reduced to 33% share.

3. The applicant claims that after the share holding pattern changed, office of the said company, which was initially running from the house of the complainant was shifted to the premises of the Hospital and it was noticed that there had been certain actions undertaken during the period prior to shifting of office whereby the complainant allegedly siphoned of amounts and caused loss to the company. It is claimed that after a meeting was held on 21/6/2018 of the Board of Directors of the company wherein such alleged misdeeds of the applicant were discussed, on 14/07/2018, the complainant approached the Economic Offence Wing and lodged the complaint making several allegations against the applicant herein. In the said complaint it was alleged that the applicant had siphoned of huge amount of money, without knowledge of the company and its Directors. Further, he had been fleecing patients, who were treated under various Government schemes. It is pointed out on behalf of the applicant that after making enquiry in the said application, said complaint was filed by the Economic Offence Wing. Thereafter,

on 22/1/2019, the complainant submitted a written complaint before the Police Station at Sitabuldi, Nagpur, alleging that fresh material was now available with him indicating the extent of misdeeds of the applicant showing large scale misappropriation of amount based on false and fabricated documents. The allegations were based on certain material said to have been received by the complainant from various patients who had been allegedly duped by the applicant. On the basis of such written complaint, the aforesaid FIR was registered and investigation was initiated. It is relevant that in the mean time the dispute between the parties reached adjudicating authorities under the Companies Act and it is informed that as of now there is a proceeding pending before the National Company Law Tribunal. In this backdrop, when the present application was listed before this Court on 07/2/2019, while issuing notice, this Court granted ad-interim anticipatory bail to the applicant in the following manner.

> "In the event of arrest of the applicant in Crime No.19/2019 registered with Police Station Sitabuldi, Nagpur, applicant be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one solvent surety in like amount on condition that he shall attend Police Station Sitabuldi, Nagpur once in a week i.e. on every Sunday in between 10:00 a.m. to 5:00 p.m."

4. In the very same order, the application filed on behalf of the complainant to assist the prosecution

was granted. Accordingly, not only the learned APP was heard on behalf of the non-applicant State, but, the learned counsel for the applicant was also heard today.

5. The learned APP has informed this Court that the applicant has indeed abided by the conditions imposed on him by this Court while granting ad-interim anticipatory bail and that he has been attending the police station regularly. The replies filed on behalf of the non-applicant State before this Court show that during the course of investigation various documents have been recovered, including vouchers and other documents pertaining to the business of the said Hospital run by the company. It is stated at one place in the reply that although the applicant has remained physically present and detailed statement of the applicant has been recorded, he has not been fully cooperated with the investigation.

6. The learned counsel appearing for the complainant has vehemently submitted that the applicant herein had not only caused large scale financial losses to the said company by acts of fabrication, but, he had also duped large number of patients covered under various Government schemes. The attention of this Court was invited to various documents to indicate that the applicant was involved in huge misappropriation of amounts and that the

material on record indicated that he was not co-operating with the investigation.

7. A perusal of material on record, including the complaint dated 22/1/2019 submitted by the complainant, leading to registration of said FIR as also an affidavit placed on record, indicates that the allegations pertain to the period between 2015 and 2017. During this period, there is no doubt about the fact that the composition of share holding changed and this has led to disputes between the complainant and the applicant and that proceedings under the Companies Act have been filed, which are pending. It cannot be disputed that there are certain civil disputes involved in the present case, although the nature of allegations made against the applicant, may indicate that the applicant has allegedly indulged in large scale misappropriation of amounts.

8. But, the very nature of allegations indicate that the investigation necessarily involves documentary material. It is not specifically pointed out on behalf of non-applicant State that there has been any lack of co-operation on the part of the applicant in handing over documentary material available with him or relevant to the allegations made against him. It has also come on record that the applicant has indeed abided by the conditions imposed while granting ad-interim bail. The vehemence which with submissions have been

made on behalf of the complainant only indicates that there is indeed dispute between the applicant and the complainant pertaining to the manner in which the affairs of the company were managed and the Hospital was being run. As to whether the applicant can be said to be responsible for the financial loss, if any, caused to the company and whether he had indeed fleeced the patients, who were treated under the Government schemes, would be a matter of trial.

9. In view of the above, this Court has come to the considered conclusion that the custody of the applicant is not required in the present case, particularly in the backdrop of the aforesaid material referred to by this Court.

10. In view of the above, the present application is allowed and ad-interim anticipatory bail granted by this Court in favour of the applicant by order dated 07/02/2019, is confirmed on the same conditions on which such ad-interim anticipatory bail was granted. Accordingly, the applicant shall continue to co-operate with the investigation and he shall attend Police Station as directed, till filing of chargesheet.

JUDGE