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

Criminal Application (ABA) No.306 of 2019
(Bhushan Vijayrao Bhusari .vs. State of Maharashtra through PSO PS Awadhutwadi, Dist. Yavatmal)
with
Criminal Application (ABA) No.327 of 2019
(Amol Arvindrao Puri .vs. State of Maharashtra through PSO PS Awadhutwadi, Dist. Yavatmal)
with
Criminal Application (ABA) No.355 of 2019
(Rupesh Kamalkant Yadav .vs. State of Maharashtra through PSO PS Awadhutwadi, Dist. Yavatmal)

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

Mr. Mir Nagman Ali, Advocate for Applicant in ABA No.306/19
Mr. A.S. Manohar, Advocate for Applicant in ABA No.327/19
Mr. R.M. Tahaliyani, Advocate for Applicant in ABA No.355/19
Mr. N.R. Rode, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 24, 2019.

The applicants herein have approached this Court for grant of anticipatory bail in respect of offences registered against them and one more accused under Sections 408, 420, 467, 468, 471 read with 34 of the I.P.C. as per FIR dated 27.04.2019.

2. The case of the prosecution against the applicants and other accused is that they were party to activities of Shriram City Union Finance Company, whereby loss of huge amount of more than Rs.1 crore was caused to the said company. The allegation is that the said Company was dealing in the business of advancing loans to persons who would keep their

gold/jewelry with the Company as guarantee and that upon repayment of the loan with interest amount, such gold/jewelry of the persons would be returned. It is alleged that the accused in the present case, despite loan amounts being returned, deliberately showed as if they were outstanding and while they returned the gold/jewelry of such persons who had taken loans, they replaced such gold/jewelry with fake gold or jewelry and siphoned off the loan amounts that were returned by such persons.

3. Applicant Amol Puri in Criminal Application (ABA) No. 327 of 2019 was the Accountant while the applicant Bhushan Bhusari in Criminal Application (ABA) N0. 306 of 2019 was the custodian of the gold that was deposited while Rupesh Yadav, applicant in Criminal Application (ABA) NO. 355 of 2019, was alleged to be involved in the said activity, although it is pointed out that he is actually employee of another company belonging to the same group i.e. Shriram Chits (Maharashtra) Limited.

4. The case of the applicant Amol Puri is that being the Accountant, he was not the custodian of the gold/jewelry and that in fact documents have been placed on record to demonstrate that he had brought to the notice of the company the aforesaid defalcation and siphoning off of the amount and that it was perhaps a move on the part of the Company to shield senior employees and to frame junior employees like him. It is further pointed out that the FIR was registered after a

delay of about three months because the said activities had come to light some time in January, 2019 and yet the FIR was registered on 27.04.2019. It was also pointed out that the said applicant had deposited Rs.10,00,000/- with the Company and that this fact was also required to be taken into consideration while deciding his application.

5. Bhushan Bhusari, who was the custodian of the gold/jewelry in the present case, also claims that there had been delay in registration of the FIR and that he was being made a scapegoat after the said scam was unearthed. It is pointed out that the complainant in the present case is the Legal Officer of the Company and that it took the Company about three months to get the FIR registered, thereby indicating that the real culprits had escaped and junior employees like him have been framed in the present case. The applicant further points out that he has also deposited Rs.5,00,000/- to show his *bona fide*.

6. The applicant Rupesh Yadav claims that he is not even an employee of the Company in question in which the aforesaid scam is said to have taken place and that he is an employee of another Company viz. Shriram Chits (Maharashtra) Limited, which has nothing to do with the activity of advancing loans by keeping gold as guarantee. The applicant claims that even in the FIR, no specific role is attributed to him and that it has proceeded on the basis as if the said applicant is also an employee of Shriram City Union Finance

Company Ltd. like the other accused thereby demonstrating that the very basis of the allegation is misplaced. It is also pointed out on behalf of this applicant that he has also deposited Rs.5,00,000/- already and that further amount could be deposited or properties could be kept as security in order to show *bona fide* of the said applicant.

7. The learned APP appearing on behalf of the non-applicant/State has strenuously opposed grant of anticipatory bail to the applicants in the present case pointing out that the investigation is still in preliminary stages and that the real modus operandi is yet to be unearthed for which custodial interrogation is necessary. It is pointed out that the present case involves a scam of more than Rs.1 crore and that just because the applicants have deposited certain amounts , the same ought not to inure to their benefit.

8. Having heard the learned counsel for the parties and upon perusal of the material placed on record, it appears that the investigation in the present case is still at preliminary stage as the FIR was registered on 27.04.2019. Although it is pointed out on behalf of the applicants that while a scam is said to have come to the notice of the Company on 18.01.2019, the FIR has been registered after a delay of more than three months on 27.04.2019, the Company having first made an in-house enquiry cannot be ruled out and in any case the aforesaid delay, *prima facie*, in the facts and circumstances of the present case as they emerge

from the material that is presently on record, does not appear to be fatal and may not necessarily inure to the benefit of the applicants.

9. As regards the contentions raised on behalf of the applicants Amol Puri and Bhushan Bhusari that they are only junior employees who are being made scapegoat in the aforesaid scam, while the senior officials of the Company have been shielded, can be gone into only on further investigation into the matter. The fact that the said Amol Puri was working as an Accountant and the applicant Bhushan Bhusari was the custodian of the gold/jewelry, *prima facie*, shows that they did have an active role to play in the business of the Company of advancing loans by keeping jewelry in deposit. It is only after further investigation into the matter, that the actual modus operandi can be ascertained.

10. Insofar as the applicant Rupesh Yadav is concerned and his contention that he is not even an employee of the said Company, the material presently on record indicates that according to the complainant and the prosecution, he was involved with the other co-accused in activities leading up to registration of the aforesaid FIR. The Company of which he claims to be the employee is admittedly a sister concern of the Shriram City Union Finance Company Ltd. and, therefore, at this stage, it cannot be said that the contention raised on behalf of the said applicant shows that no role can be attributed to him in the present

case.

11. The fact that the applicants have deposited certain amounts with the Company after the scam was detected, cannot be a factor for considering their prayers in these applications.

12. As noted above, the investigation in the present case is still at a preliminary stage and since the case involves the question of misappropriation and siphoning away of huge amounts, it would be in the fitness of things that the non-applicant/State is permitted to investigate further into the matter and if necessary upon taking custody of the applicants herein.

13. In view of the above, the applications are rejected.

JUDGE

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