IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1013 OF 2021

Ganesh Sopan Pawar .....**Applicant**

V/s.

The State of Maharashtra ....**Respondent**

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Mr. Umesh R. Mankapure, Advocate for the applicant.

Mr. Yogesh Dabke, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 8th April, 2021.

P.C. :

1. Heard Mr. Mankapure, learned Counsel for the applicant and Mr. Dabke learned APP for State.

2. Apprehending arrest in connection with Crime No.252/2020 registered with Miraj City Police Station, District-Sangli for the offences punishable under Sections 407, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code, he seeks pre-arrest bail. The applicant is

owner of Samruddhi Warehouse/Cold Storage. Bank of Baroda (complainant) executed a Collateral management agreement with M/s. CNX Corporation Ltd, inter-alia to supervise and monitor the storage of goods and commodities deposited in the cold storage/warehouse of the applicant, as security with Bank of Baroda by various borrowers of the said Bank for the loan facilities availed by the borrowers in respect of respective loan agreements. Such loan facilities were secured, inter-alia, by depositing all warehouse receipts/storage receipts issued by the owner of cold storage and collateral manager respectively. In term of tripartite agreement dated 9th June, 2018 the cold storage owner of the licensed cold storage (applicant herein) had agreed to provide suitable cold storage facilities for storage of commodities (agricultural produce) to be pledged to the bank by the borrowers. Also it appears that the cold storage owner, if required to provide suitable infrastructural facilities to collateral manager for the purpose of monitoring the movements of commodities deposited by the borrowers of the bank in subject cold storage premises. Clause-5 of the agreement reads as follows :

> *"5. The Cold Storage Owner understands that the Bank is extending the loan facilities to the said Borrower on the strength of the Warehouse Receipts/Storage Receipts issued by the Cold Storage Owner and Collateral Manager, respectively, and agrees that the Cold Storage Owner will not part with or deliver the commodity except after receipt of the written authorization of the Bank. The Cold Storage Owner further agrees not to deal with the commodity in any manner without reference to the Bank."*

3. Thus, to be stated that the cold storage owner had control and dominion over the property in trust, on behalf of complainant, Bank of Baroda. On 21st January, 2020, Chief Manager of Bank of Baroda, Miraj Branch reported, the six cold storage owners, did not adhere to the provisions of the tripartite agreement, in particular,

Clause-5 as reproduced above and in collusion with the borrowers, misappropriated the goods pledged with them, worth Rs.16,97,00,000/-, whereafter the subject offence came to be registered. Insofar as the present applicant is concerned, goods worth Rs.1,29,00,000/- were stored in the warehouses (cold storage of the applicant). Indisputably, there is no evidence to show that, the cold storage owner was authorised and permitted by the bank to part with or deliver the commodity. In the circumstances, prima-facie, a case of, breach of trust is made out against the applicant. As such, custodial interrogation of applicant, cannot be denied to investigating agency.

4. Mr. Mankapure, learned Counsel submits that the goods were allegedly parted somewhere around, December, 2018-January, 2019, however, the complaint was lodged in November, 2020. Submission is that, though the bank was aware of the alleged unauthorised movement

of goods, FIR was not lodged promptly and as such, the applicant's custodial interrogation is not required. Besides, Mr. Mankapure, has also brought to my notice the complaint dated 3rd July, 2019 filed by him with Kupwad Police Station, Taluka-Miraj alleging cheating by one, Ajit Narayan Jadhav, representative of CMX Corporation Limited which in my view is of no assistance to applicant. Be that as it may, while, refusing pre-arrest protection, to the applicant, the learned Additional Sessions Judge, in his order (para-11) has referred to an Undertaking of the applicant, wherefrom it appears, the applicant had, agreed to pay amount of loss caused to the bank. Although, the discussion in para-11 suggests, the applicant had denied the execution of an Undertaking, but the fact remains, allegations are required to be investigated. So also, loss caused to the 'Public Sector Bank' cannot be left unattended.

5. In consideration of the facts of the case and for the reasons stated above, no case is made out for granting pre-arrest bail to the applicant. The Bail Application is rejected.

(SANDEEP K. SHINDE, J.)