IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.413 OF 2021
ALONGWITH
INTERIM APPLICATION NO.595 OF 2021

Rahul Kumar Singh .. Applicant
Vs.
The State Of Maharashtra .. Respondent

ALONGWITH
ANTICIPATORY BAIL APPLICATION NO.414 OF 2021
ALONGWITH
INTERIM APPLICATION NO.602 OF 2021

Mr. Kuldeep Manoharlal Singh .. Applicant
Vs.
The State Of Maharashtra .. Respondent

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Mr. Joel Carlos a/w Zishan Quazi, Advocate for Applicant both matters in ABA.
Mr. Sanjeev Kadam i/by Nikilesh Pote, Applicant in IA in both maters.
Mr. S. S. Pednekar, A.P.P. for the State-Respondent in ABA/413/2021.
Mr. Y.M. Nakhwa, APP for the State-Respondent in ABA/414/2021 .

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CORAM : PRAKASH D. NAIK, J.
DATE : 23rd FEBRUARY, 2021

PC.

1 The applicants in both the applications are apprehending arrest in connection with C.R. No.I-757 of 2020 registered with Kashimira Police Station, Mira-Bhayandar, Thane for the offence punishable under Sections 408, 420, 465, 467, 468 read with Section 34 of the Indian Penal Code (for short “IPC”).

2. The case of the complainant is that the applicants were working at GCC Hotel and Club as the Chief Cashier and Chief Controller in 2019-2020. The amount of Rs.32,57,100/- was misappropriated. The computer ID and password were misused by them.

3. Learned Counsel for the applicant submitted that the applicants are falsely implicated in this case. There is no misappropriation of amount. The applicants had left the job as salary was not paid to them. The articles which are allegedly taken from the premises were not belonging to the complainant company and the same were purchased by the accused. There is no cogent evidence to establish that the amount was misappropriated by them. The applicant in Anticipatory Bail Application No. 414 of 2021 was merely given responsibility to deposit amount after the Accounts Department having examined the bills and receipt generated by the Billing Department and the cash received by the junior cashier. It is impossible for them to commit fraud. It is not possible for the applicant to carry out any such alleged transactions, as the details of all the transactions are reflected in the system and the applicants cannot be blamed for it. The applicants have limited powers. Monthly audit of accounts was used to be conducted. Therefore, it is difficult to accept. The allegations in belated FIR alleging that there was misappropriation. Learned counsel pointed out the observation of the

Sessions Court in the order rejecting the application for Anticipatory Bail wherein it was observed that the Investigating Officer had stated before the Court that informant is interested in recovery of money. It is submitted that the investigation cannot be utilized as a tool for recovery of money. The applicants are willing to co-operate with the investigation. All the documents are in possession of the complainant and the investigating agency. The applicant need not be subjected to custodial interrogation.

4. Learned APP submitted that the applicants are involved in misappropriation of huge amount. Investigation is in progress. The FIR reflects the misappropriation of Rs.32,00,000/-. The investigation report shows that there is likelihood of involvement of huge amount in the crime. The applicants had misused the password ID. Although, the proper cash amount was received from all the customers, the lessor amount was credited to the account of the complainant company by the applicants by indulging in alteration in the entries of the receipts.

5. Learned Intervenor reiterated the arguments of learned APP. In addition, it is submitted that the documents on record clearly shows manipulation by the accused. Learned Intervenor by way of illustration pointed out that for the receipt which was issued towards the payment of Rs.2,00,000/- however, lesser amount was credited in the sum of Rs. 20,000/-.

It is submitted that this is the modus operandi in which the accused have misappropriated the amount.

6. The investigation is in progress. According to the prosecution, the applicants were having access to the computers having user ID and password. The FIR alleges alteration in the computer system and siphoning of Rs.32,00,000/-. It is alleged that the amount is huge. Thorough investigation is necessary. It was also alleged that amount was lying in the bank account of the accused. On perusal of the FIR and after hearing the submissions of both sides, I find that complicity of the applicants is disclosed during the investigation which is required to be investigated. Custodial investigation of the applicants is necessary. No case for grant of anticipatory bail under Section 438 of Cr.P.C. is made out.

ORDER

(i) Anticipatory bail application Nos.413 of 2021 and 414 of 2021 are rejected. Interim applications disposed off.

(**PRAKASH D. NAIK, J.)**