

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1011 OF 2020

Amit Kishor Mehta

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Omneel A. Jadhav for Applicant.

Mr. H. J. Dedhia, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 25th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 57 of 2020 registered with Pandharpur City Police Station, on 09/01/2020, under sections 406, 409, 417, 420, 423 and 424 r/w. 34 of the Indian Penal Code (for short 'IPC') and under sections 143, 447, 448 and 67(8) of the Companies Act, 2013.

2. The First Information Report (for short 'F.I.R.') is lodged by Dr. Sheetal Kantilal Shah. He has stated that, since 2011

he was President of M/s. Pedicare Pharmaceutical Marketing Pvt. Ltd. The company was incorporated in the year 2009 by the informant and it had five directors. One of them was Subodh Somani. The main accused Prakash Lalwani was a friend of Subodh Somani, therefore, Prakash Lalwani was appointed as one of the Directors. Slowly, the main accused Prakash Lalwani took control of the company and shifted the company's office from Pune to Parali, Beed. There are allegations that, salary was paid to the relatives of the accused though they were not concerned with the company. There are allegations of various other modes of misappropriation. The F.I.R. mentions that the company was put to loss to the tune of Rs.93,00,000/-. On this basis, the F.I.R. was lodged.

3. The allegations against the present applicant are that he was the Company Secretary. He had forwarded false information to his knowledge to the Registrar of Companies (ROC) to help the main accused Prakash Lalwani and others.

4. Heard Shri. Omneel Jadhav, learned counsel for the applicant and Smt. Lohokare, learned APP for the State.

5. Learned counsel for the applicant submitted that, he was merely Company's Secretary and he was not part of any decision making process. He had simply forwarded the documents and the information which was supplied to him by the Directors of the company to ROC. He had no role to play in the actual dispute between different set of Directors and the main accused. The applicant was not beneficiary and he was employed only on retainership basis. Learned counsel for the applicant relied on the order dated 03/07/2020 passed in LD VC DIST A.B.A.No.73 of 2020 whereby this court (Coram: Bharati Dangre, J.) had granted anticipatory bail to one Madhusudan Bhakkad. He was the Chartered Accountant of the said company. Learned counsel for the applicant submitted that, the present applicant's case is similar to that of Bhakkad who is granted anticipatory bail. He was also retained by the company.

6. Learned APP, on instructions of I.O. who is present in the court, fairly states that the investigation has not revealed that the applicant has received any wrongful gain for himself and/or

that he was a beneficiary of the offence.

7. I have considered these submissions. The applicant's case stands almost on similar footings as that of Bhakkad who was a Chartered Accountant and who was granted anticipatory bail by this court. The said accused Bhakkad and the present applicant were employees of the company and they had to rely on the information given by other Directors of the company. There are no allegations that the present applicant had committed any fraud in creating the accounts etc. He was only required to tender information which he was bound to tender as per the information supplied by the other Directors in respect of their tenure etc. In this view of the matter and particularly taking into consideration the fact that the applicant is not a beneficiary and has not received any monetary benefit in the offence, as per statement made by learned APP, custodial interrogation of the applicant is not necessary. He can be protected by an order of anticipatory bail.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 57 of 2020 registered with Pandharpur

City Police Station, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)