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

CRIMINAL APPLICATION [ABA] NO.507/2021.
Arvind Virendra Shukla.
-**VERSUS-**
The State of Maharashtra, P.S. Bhandara.

CRIMINAL APPLICATION [ABA] NO.491/2021.
Surendra Shalikram Kinekar.
-**VERSUS-**
The State of Maharashtra, P.S. Bhandara.

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

S/Shri F.I. Choudhary and I.G. Meshram, Advocates for Applicants.
S/Shri A.M. Deshpande and N.B. Jawade, A.P.Ps. for the Non-applicant.

CORAM : VINAY JOSHI, J.
DATE : AUGUST 23, 2021.

Heard.

2. Both applicants are apprehending their arrest in Crime No.224/2021 registered with the non-applicant – Bhandara Police Station for offence punishable under Section 406 read with Section 34 of the Indian Penal Code. They prayed for pre-arrest protection by claiming innocence, false implication and inadequacy of material. In

addition to that, it is submitted that the entire prosecution case is based on documents as well as there is considerable delay in lodging the first information report.

3. The State has resisted the bail by filing reply-affidavits. It is contended that the applicant – Arvind Shukla was serving as a Cashier, whilst applicant – Surendre Kinekar was working as Assistant Cashier-cum-Accountant in the establishment run by the informant. In systematic manner they have manipulated accounts and misappropriated huge sum of Rs.28.43 lakhs for their own benefit. The misappropriated amount is yet to be recovered. Applicants have also manipulated the computer password and made false entries into the account books, which requires thorough investigation.

4. The informant – Hussain is running a Proprietary concern namely “New Era Motors” at Bhandara. The said proprietary concern is an authorized show room for Honda vehicles i.e. a

dealership to sell vehicles. Applicant – Arvind was serving as Cashier, whilst applicant Surendra was serving as Assistant Cashier-cum-Accountant in the said proprietary concern. The informant Hussain stated that both applicants were entrusted with the job to maintain accounts, cash book, ledger book and to look after the day to day transaction.

5. While the informant was verifying the balance sheet, he came across some discrepancies in the amounts received from the customers with the amount accounted for. On detail probing found that in 49 cases of different customers there has been manipulation. According to him in those 49 cases, of which details are given in the first information report, sum of Rs.40,83,976/- was received from the customers, however, only an amount of Rs.12,40,520/- came to be accounted for and deposited in the Bank. In other words, applicants have manipulated accounts and misappropriated the huge sum of Rs.28,43,454/-. The said misappropriation was done by applicants

during the period from October, 2019 to February 2021, hence, the report.

6. Prosecution on illustrative basis demonstrated that, in case of customers namely Sanjay Itankar and Ashwin Mankar there is overwriting in the cash book. Corresponding invoices are shown from where it reveals that in case of Sanjay Itankar, an amount of Rs. 89,471/- was received from the customer, whilst only an amount of Rs.32,471/- was accounted for. Likewise, in case of Mankar, an amount of Rs.87,140/- was received, but, only an amount of Rs.25,640/- was entered into the cash book. It was specifically pointed out that in cashbook there is overwriting in the amount shown as received from the customer. The informant has given details of all the figures relating to 49 customers showing that total amount of Rs.28,43,454/- was misappropriated. Corresponding invoices and accounts were produced.

7. The learned Counsel appearing for

applicants would submit that there is delay in lodging the report. It is argued that though the period of alleged misappropriation is upto February 2021, still there is delay in lodging the first information report. On the other hand, the prosecution has pointed that initially the informant has filed report with the police on 20.04.2021 and 28.06.2021, but, cognizance was not taken. Basically it is a case of misappropriation and manipulation of accounts. Considering the nature of offence, it cannot be treated at par with the case of bodily offence to expect immediate lodging of the first information report. It is informants case that as and when he verified the accounts, he came to know about the discrepancies on which he has lodged report. Therefore, at this prima facie stage, delay cannot be considered as a valid ground in favour of applicants.

8. The learned Counsel for applicants while claiming bail initially has relied on the decision of the Hon’ble Supreme Court in case of

Amarjit Singh .vrs. State of NCT of Delhi (2009) 13 SCC 769. In said case the Hon'ble Supreme Court has disapproved the precondition of deposit of money for grant of pre-arrest protection. Being different facts, said case has no relevance with the facts of this case.

To the next, reliance is placed on the decision of this Court in case of **Kalpana Krushana Karke .vrs. The State of Maharashtra and others (Criminal Appeal St.No.224/2018, dated 16.04.2018)**, which also appears to have no nexus with the issue involved.

9. The misappropriated amount is yet to be recovered. The police have to verify the handwriting on the cash book and the receipts issued to the customers. It is necessary to carry investigation in respect of entire accounts and modus adopted applicants. Having regard to these facts, it is not a fit case to exercise judicial discretion, hence, both application stands rejected.

JUDGE

Rgd.