

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 ANTICIPATORY BAIL APPLICATION NO.751 OF 2022

TEJASWINI W/O ARVIND DHAGE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.S. Shinde, Advocate for the applicant

Mr. S.J. Salgare, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 12th AUGUST, 2022

ORDER :

1 By this second application the applicant is seeking anticipatory bail in view of her apprehension of arrest in connection with Crime No.60/2022 dated 25.01.2022 registered with M.I.D.C. Waluj Police Station, Dist. Aurangabad, for the offence punishable under Section 406 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. S.S. Shinde for the applicant and learned APP Mr. S.J. Salgare for the respondent.

3 The learned Advocate for the applicant submits that the First

Information Report has been lodged by the Human Resource Officer of ESS-DEE Industries. Upon audit they found that there is some problem with the quantity of raw material. Then inquiry was made and it was revealed that one Kanifnath Gawali, who is Assistant Manager with the said company, is involved in the activity. Tejaswini Arvind Dhage i.e. present applicant, his husband Arvind Devanand Dhage, Kanifnath Gangadhar Gawali (Assistant Manager), Kanifnath's wife Suman Kanifnath Gawali and Amol Pratap Kulkarni (Production Supervisor) have started one company by name 'IMR Industries' and they have grabbed the raw material as well as finished products of ESS-DEE Industries, thereby causing them loss worth Rs.12,00,000/- to Rs.15,00,000/-. The applicant has produced on record the documents of her company and also the tax invoices from ESS-DEE Industries to one Jay Bhagwan Engineering Works and other companies. The payments have been made by present applicant in respect of her business. It is not that the present applicant was taking raw material from same company, which was supplying the material to ESS-DEE Industries. But they have purchased raw material from other companies also. No offence has been committed by present applicant.

4 After this Court had rejected the earlier bail application filed by the applicant, Anticipatory Bail Application No.378 of 2022 was withdrawn

after the disinclination is shown on 25.03.2022, however, thereafter similarly situated applicant, who has been shown as accused No.3 as per First Information Report, has been granted bail on 04.05.2022 by this Court in Anticipatory Bail Application No.430 of 2022. Therefore, on the ground of parity also the applicant deserves to be released on bail.

5 Per contra, the learned APP strongly opposed the application stating that the application in respect of main persons involved in the crime has been rejected by this Court. Though accused No.3 was granted anticipatory bail, applicant cannot claim parity. The custodial interrogation of the applicant is necessary.

6 At the outset, it is to be noted that the earlier order passed by this Court on 25.03.2022 was not a reasoned order. When oral disinclination was shown on the basis of material that was produced at that time, this Court was about to reject the bail, but then, the applicants and co-accused have withdrawn the said application. But thereafter the accused No.3 had come before this Court and she was also involved in the same First Information Report. Her anticipatory bail application has been allowed by this Court on 04.05.2022. It can be certainly said that the present applicant is similarly situated to the accused Suman Kanifnath Gawali, whose application was

allowed by this Court on 04.05.2022. According to the informant, the husbands of the present applicant and Suman were the employees of said industry. They had formed another company by showing the present applicant and Suman as it's Directors and according to the informant, it has caused loss to their company, as those accused especially, the employees of the informant's company committed theft of the raw material as well as finished products and sold it to IMR Industries, which is the company of the present applicant and Suman. The reasons given for grant of bail to Suman would be applicable to the present applicant also. The applicant is not claiming parity for any other accused especially, those employees of the informant's company, but it is against the another co-accused, who is the Director of IMR Industries. Therefore, the interim protection granted earlier to the applicant deserves to be confirmed. Accordingly, it is confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 29.07.2022, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the

event of arrest of the applicant viz. **Tejaswini w/o Arvind Dhage**, in connection with Crime No.60/2022 dated 25.01.2022 registered with M.I.D.C. Waluj Police Station, Dist. Aurangabad, for the offence punishable under Section 406 of the Indian Penal Code, 1860, she be released on PR. Bond of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 Applicant shall not indulge in any criminal activity nor she should tamper with the evidence of the prosecution, in any manner.

4 Applicant shall cooperate with the investigation and shall remain present before the Investigating Officer as and when called.

(**Smt. Vibha Kankanwadi, J.)**

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