IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

9 ANTICIPATORY BAIL APPLICATION NO.1290 OF 2021

WITH

CRIMINAL APPLICATION NO.2971 OF 2021

MANOJ GOKULDAS MANUDHUNE

VERSUS

THE STATE OF MAHARASHTRA

...

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

Mr. A.M. Phule, APP for the respondent

Mr. R.R. Chandak, Advocate for assist to PP

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 10th JANUARY, 2022.

ORDER :

1 Criminal Application No.2971 of 2021 moved for assist to PP stands allowed and disposed of.

2 Applicant is apprehending his arrest in connection Crime No.368/2021 dated 18.07.2021 registered with Sangamner City Police Station, Dist. Ahmednagar, for the offence punishable under Section 406, 420, 507 of the Indian Penal Code, 1860.

3 Heard learned Advocate Mr. S.S. Bora for the applicant and learned APP Mr. A.M. Phule, well assisted by learned Advocate Mr. R.R. Chandak, for the respondent/State.

4 It has been vehemently submitted on behalf of the applicant that the applicant has been falsely implicated. He is a trader by profession, who deals in sugar. The nature of the work, the applicant undertakes, is to book the sugar from various firms and then forward it to another firm or sellers and thereby the applicant earns commission. The transaction would be between the two firms and there is no question of dealing in the money by the present applicant. The amounts are debited and credited between the two firms and the applicant would get only his commission. The informant is alleging that the applicant has cheated her to the tune of Rs.8,95,779/-. Different offences have been registered against the present applicant, however, the applicant was released on anticipatory bail by learned Additional Sessions Judge-2, Baramati in connection with Crime No.416/2021 registered with Baramati Taluka Police Station, Dist. Pune. In another offence vide Crime No.513/2021 registered with Newasa Police Station, Tq. Newasa, Dist. Ahmednagar he has been released on anticipatory bail by learned Additional Sessions Judge, Newasa, Dist. Ahmednagar by order dated 05.08.2021. However, in the present case his application has

been rejected by the learned Additional Sessions Judge, Sangamner. No proper grounds have been given for rejecting the application. The transaction is affording remedy that of civil in nature, however, the informant has given criminal nature to it. There is no question of fraudulently and dishonestly inducing the informant to deliver the property to the applicant. There is no question of delivery of the property to a commission agent. In fact, the amount was deposited in the account of M/s. Ganpati Enterprises from the account of Birla Provisions and General Stores on 28.05.2021 and 18.06.2021. The informant has received all the amounts and in fact, there was a settlement deed between those two firms on 01.07.2021. The copy of the said settlement deed has been produced, which shows that amount of Rs.47,78,981/- was paid. The account extract of Birla Provisions and General Stores would show the transfer of those amounts. Under such circumstance, the physical custody of the applicant is not required for the purpose of investigation. This Court had granted interim protection to the applicant on 28.10.2021 and he has abided by the terms of the bail. Learned Advocate for the applicant, therefore, prayed for confirming the said interim protection.

5 Per contra, the learned APP well assisted by learned Advocate Mr. R.R. Chandak submitted that if the accused is agent as per the Accountancy terms, then, agent cannot transfer any amount, as he is not a

purchaser. There was no necessity for the present applicant to enter into any so called settlement. Further, the First Information Report has been lodged by Manjushri Mahesh Karwa, who is the proprietor of Ganpati Enterprises, Phaltan and the alleged document is stated to have been signed by her husband Mahesh Ramkishan Karwa, who can be said to be not authorized. Further, at the most, even if we take the document as it is, it is in respect of alleged payments in between 01.06.2021 to 15.06.2021. In the First Information Report it is stated that the transaction had taken place between 28.05.2021 to 10.06.2021 and the cheating is to the extent of Rs.16,66,441/-. The transaction has been elaborately stated in the First Information Report. Further, during the course of the investigation the evidence has been collected as to by which mode of transport and vehicle the goods were supplied. Other documentary evidence has been collected, which show that the informant had supplied the goods i.e. sugar as directed by the present applicant. The applicant had undertaken to clear the bills also. Learned APP also submitted that when already two more offences are registered against the present applicant, merely because the other Courts have released him on anticipatory bail, that does not mean that the applicant is entitled to be released on anticipatory bail. In fact, in all six offences are registered against the present applicant with various police stations. The list is as follows :

1 **Crime No.79/2014** registered with Chalisgaon Police Station, Dist. Jalgaon for the offence punishable under Section **420, 406** read with Section 34 of the Indian Penal Code, 1860.

2 **Crime No.127/2014** registered with Azad Nagar Police Station, Dist. Dhule for the offence punishable under Section **420, 406** of the Indian Penal Code, 1860.

3 **Crime No.39/2014** registered with Jalgaon City Police Station, Dist. Jalgaon for the offence punishable under Section **420, 406** of the Indian Penal Code, 1860.

4 **Crime No.43/2014** registered with Pachora Police Station, Dist. Jalgaon for the offence punishable under Section **420, 406** read with Section 34 of the Indian Penal Code, 1860.

5 **Crime No.98/2014** registered with Karad Police Station, Dist. Satara for the offence punishable under Section **420, 406** of the Indian Penal Code, 1860.

6 **Crime No.83/2014** registered with Pachora Police Station, Dist. Jalgaon for the offence punishable under Section **420, 406** of the Indian Penal Code, 1860.

6 Before turning to the case put up by the applicant, it is necessary to see what are the allegations in brief against the applicant in the First Information Report. Informant is the owner of a registered firm by name 'Ganpati Enterprises, Phaltan'. Through the said firm informant submits the tender and purchases the sugar and sells it as per demands. All the transactions of said firm are being conducted by the informant and her

husband Mahesh Karwa. Since April, 2020 they got acquainted with a sugar trader Manoj Manudhane from Erandol, Dist. Jalgaon and through him since April, 2020, from time to time, informant sent sugar to M/s. Prakashchand Oswal, R/o Jamner, Dist. Jalgaon. As per earlier transactions the amount is being deposited in the account of Ganpati Enterprises from the account of M/s Prakashchand Hukumchand Oswal. Applicant has done all transactions, from time to time, by creating confidence in the mind of informant. All the transactions were being done on phone. As per the demand of applicant on 28.05.2021 husband of informant sent 250 quintal sugar worth Rs.8,34,797/- from Bhausaheb Thorat Sugar Factory, Sangamner in the name of M/s. Prakashchand Oswal. Again, as per the demand of applicant on 10.06.2021 husband of informant sent 250 quintal sugar worth Rs.8,31,644/- from Bhausaheb Thorat Sugar Factory, Sangamner in the name of M/s Prakashchand Oswal. Thereafter, after 10-15 days when husband of informant asked to applicant about payment of said transactions, initially applicant asked for some time and thereafter applicant avoided the said payment and cheated the informant for sum of Rs.16,66,441/-.

7 Thus, it is to be noted that as per the allegations everything has been done by the informant as stated by the applicant and this is stated to have been achieved due to the confidence created by the applicant in the

mind of the informant. When the outstanding amount was to the extent of Rs.16,66,441/- and it was asked initially, it is said that the applicant requested for more period to clear the payments, however, thereafter, he has started objecting or raising the defence that they had not received the goods at all. When the evidence has been collected to show that such supply of the goods has been made by the informant, then, it is also the say of the informant that statement was made by the present applicant that he has sold the goods with somebody else. In fact, when it is a commercial transaction also trust is important and when with a particular trust the goods were supplied and the present applicant is stated to be the agent, he ought to have supplied those goods further to the person on whose behalf the order was placed. But then it appears from the allegations that though the informant supplied the goods, the applicant was the person, who had sold it to third person. When a civil transaction has criminal element also, then, at the stage of anticipatory bail we cannot go into much of the details.

8 At one place the applicant is saying that in view of his character as commission agent he was not dealing with the money, but then, on the other hand, he is also relying upon the said alleged settlement deed. He has been shown to be the person, who got it executed on behalf of Birla Provisions and General Stores. There is no documentary evidence to show

that who is the owner of Birla Provisions and General stores. Informant says that when transaction since April, 2020 was entered into by her through applicant, she used to get money from the account of one Prakashchand Hukumchand Oswal. The transactions in question in the First Information Report are in respect of the goods supplied in the name of said Prakashchand Hukumchand Oswal and not to Birla Provisions and General Stores.

9 What has come on record is that in all six offences have been registered against the present applicant with various police stations and, therefore, when it comes to economic offence, this Court would like to rely upon **P. Chidambaram vs. Directorate of Enforcement, (2019) 9 SCC 24**, wherein Hon'ble Apex Court has observed that the Court should be slow in grant of anticipatory bail when it comes to economic offence. Taking into consideration the allegations custodial interrogation of the applicant appears to be necessary and, therefore, this application deserves to be rejected. Accordingly, it is rejected. Criminal Application No.2971 of 2021 stands disposed of.

(Smt. Vibha Kankanwadi, J.)

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