IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1194 OF 2021

Ajit Narayan Jadhav ... Applicant
versus
State of Maharashtra ... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.2219 OF 2019

Ajit Narayan Jadhav ... Applicant
versus
State of Maharashtra ... Respondent

Mr. Sanjeev Kadam i/by mr. Veerdhaval Kakade, for Applicants.
Mr. Y.Y.Dabke, APP, for State.
Mr. Narayan Deshmukh, PI EOW, Sangli, present.

CORAM: N.J.JAMADAR, J.

RESERVED ON : 23rd JUNE, 2022
PRONOUNCED ON : 26th JULY, 2022

P.C.

1. These applications are preferred for pre-arrest bail. The Applicant is arraigned in C.R.No.298 of 2019 registered with Sangli City Police Station and C.R.No.252 of 2020 registered with Miraj City Police Station on the strength of the reports lodged by Vijaykumar Upadhyay, Chief Manager, Bank of Baroda, Sangli Branch and Jagdish Namdeo Patil, Chief Manager, Bank of Baroda, Miraj Branch, respectively for the offences punishable under Sections 420 and 407 read with Section 34 of the Indian Penal Code, 1860.

2. The indictment against the Applicant runs as under :

In February 2016, the Applicant was initially appointed as a Business Development Manager with CNX Corporation Limited. In the month of May, 2017, the Applicant came to be promoted as Central Zone Head, Maharashtra and Orissa of CNX Corporation Limited, which deals in the business as collateral manager. In the year 2015, Collateral Management Agreement was executed between the Bank of Baroda and the CNX Corporation Limited. Under the terms thereof, CNX Corporation Limited was appointed as a collateral manager for the purpose of receiving and taking possession of commodities at the storage area for and on behalf of the Bank of Baroda for the purpose of creating valid pledge over such commodities in favour of the Bank. As a corollary, a tripartite agreements were executed between the Bank of Baroda, CNX Corporation Limited and Gold Storage Owners. Based on the tripartite agreement, Bank of Baroda would provide loans to farmers against the pledge of the commodities. The collateral manager was entrusted with the responsibility of certifying the quantity and quality of the commodity stored in the cold storages. On the basis of the Commodity Deposit Certificates (CDC) issued by the collateral manager, the bank would provide finance to the farmers. The commodity was not to be sold or removed from the godown without the permission of the bank and unless the loan was discharged by the farmers. The Applicant being the principal officer of CNX Corporation Limited, at Sangli, was entrusted with the responsibility of ensuring that the CDCs were issued in conformity with the tripartite agreement and the commodity was stored, preserved and removed from the godown in terms of the agreement.

3. During the course of inspection by the bank in the month of December 2018 and January 2019, it transpired that the commodity in the cold storage godown was either short of the certificate or of inferior quality. It further transpired that the commodity which was pledged with the bank was removed from the godown without intimation to the bank in connivance with the cold storage owners and the collateral manager. The bank was thus induced to advance monies to the persons on the basis of false CDCs and the commodity was allowed to be removed by committing criminal breach of trust. Thus, reports were lodged.

4. Investigation revealed that the Applicant was instrumental in fabrication of the record and procuring the loans on the basis of the false CDCs and also in releasing the pledged commodity without discharging the liability of the bank.

5. Apprehending arrest, the Applicant preferred these Applications. In ABA No.2219 of 2019 on 11th October, 2019 this Court was persuaded to grant interim protection to the Applicant noting the submission made on behalf of the Applicant that since the Applicant was in charge of the operations in Maharashtra and Orissa, it was not possible for him to personally verify all the storage houses. In ABA No.1194 of 2021, after noting that the Applicant has been granted interim protection in ABA

No.2219 of 2019, interim pre arrest bail came to be granted.

6. I have heard Mr. Sanjeev Kadam, learned Counsel for the Applicant and Mr. Dabke, learned APP for the State at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record.

7. Mr. Kadam, learned Counsel for the Applicant strenuously submitted that the Applicant was first promoted as a Central Zone Head, Maharashtra and Orissa of CNX Corporation Limited in the year 2017. As many as 50 cold storage units in the State of Maharashtra only, were within the overall supervisory control of the Applicant. The Applicant was, thus, not directly in charge of the cold storage units where the alleged fraud was committed. In fact, the terms of the tripartite agreement cast responsibility on the cold storage unit owners, and the officers of the bank were also enjoined to visit the cold storage units periodically and take inspection of the pledged commodity. Therefore, the Applicant cannot be fastened with criminal liability for merely being the Central Head Zone.

8. As a second limb of this submission, Mr. Kadam would urge that if the Applicant is held liable only for being the Central Zone Head of CNX Corporation Limited, the Applicant is entitled to the same dispensation as was extended to Smt. Nirupama Pendurkar, M.D. of CNX Corporation Limited, who has been extended the benefit of pre-arrest bail by the learned Additional Sessions Judge, Sangli by an order dated 27th September, 2019.

9. Mr. Kadam would further urge that the investigation is complete for all intent and purpose. Charge sheet has been lodged. The Applicant is on interim protection since 11th October, 2019. Thus, at this length of time, there is no propriety in insisting for the custodial interrogation of the Applicant. In any event, the offences revolve around documents. Thus, the interim protection deserves to be made absolute.

10. Per contra, Mr. Dabke, learned APP for the State stoutly submitted that the role of the Applicant is not as innocuous as is sought to be made out on behalf of the Applicant. The investigation has revealed that the Applicant was the principal offender and orchestrated the entire fraudulent operations. There are statements of the supervisors who have categorically stated that the Applicant directed them to act in breach of the stipulations in the tripartite agreement and collateral management agreement. The Applicant threatened them with removal from service if they did not obey his directions to certify the commodity to be in order despite short quantity or inferior quality.

11. Mr. Dabke laid emphasis on the fact that in the intervening period, huge amount to the tune of more than Rs.50 Lakhs came to be deposited in the multiple accounts of the Applicant, in cash or through the banking channels. Few of those transactions were by the cold storage unit operators. Thus, there is overwhelming material to show that the Applicant was the kingpin of fraud and derived wrongful gain therefrom. Therefore, the Applicant does not deserve the exercise of discretion.

12. The submission on behalf of the Applicant that the Applicant having held a senior supervisory position as the Central Zone Head of CNX Limited Corporation for Maharashtra and Orissa, cannot be held accountable for day to day operations of each of the cold storage units, at the first blush, appears attractive. However, in the case at hand, upon careful perusal of the material collected during the course of investigation, especially the statements of the subordinates of the Applicant, it appears difficult to readily accede to the aforesaid submission. To add to this, there are concomitant circumstances which prima facie incriminate the Applicant.

13. Three of the supervisors namely Amit J. Patil, Mohan V. Yadav and Shashank D. Gotpagar have stated before the police in categorical terms that the Applicant was running the show of the cold storages where fraud was allegedly committed. Mr. Shashank Gotpagar states that neither he nor any supervisor or employee of CNX Corporation Limited, had the freedom to execute any work. The Applicant threatened to remove the employees who disobeyed his command. Therefore, they worked as directed by the Applicant and, accordingly, documents were prepared and returns were submitted.

14. Mr. Amit Patil informed the Police that when he brought to the notice of the Applicant that the commodity received from the farmers was less than that shown in the receipt, the Applicant threatened him to certify the CDCs as directed, lest leave the job. Upon being asked to what explanation should be given to the bank officers

when they visited the godown as there was no pledged commodity in the godown, the Applicant assured him that he would manage the things. Mr. Amit Patil also refers to incidents which occurred on 23rd December, 2018 and 20th January, 2019 at Abhudaya Cold Storage where the pledged commodity was removed from the godown without intimation to the bank. He claimed to have called the Applicant. The Applicant questioned him as to why he interfered with the operations of the said cold storage unit and threatened to remove him from service. Mr. Mohan Yadav supports the claim of Mr. Amit Patil. There are statements of other employees of CNX Corporation Limited.

15. Mr. Kadam attempted to salvage the position by canvassing a submission that, after the offences were registered, the supervisors who were primarily responsible for the storage and preservation of the pledged commodity have named the Applicant to save their skin. Had there been no concomitant circumstances, Mr. Kadam would have been justified in canvassing this submission.

16. It is imperative to note that the fact that the goods were removed from the godown without discharging the liability and intimation to the bank, is admitted by the Applicant in a letter dated 3rd January, 2019 addressed to the Chief Manager, Bank of Baroda, Sangli Branch. In the said letter, with reference to shortage of stock in various godowns, the Applicant, prima facie, conceded that the farmers were allowed to sell the stocks as they were getting good price. The Applicant assured to make

arrangement to deposit the due amount with interest and charges on or before 31st January, 2019.

17. Mr Kadam would urge that the Applicant was made to write the aforesaid letter under duress. It would be contextually relevant to note, by way of illustration, that one of the cold storage owners i.e. B.L.Cold Storage Agrotech Pvt. Ltd., also admitted the fact that the farmers were allowed to sell the stocks for the reason that they were getting good price and arrangements would be made to deposit the amount.

18. What is of critical significance and prima facie nails the Applicant is the fact that during the period 2017 to 2018 in the various accounts of the Applicant an amount in the range of Rs.50 Lakhs came to be deposited by various persons. A substantial number of deposits were in cash and through RTGS. Few of the deposits appear to have been made by the persons connected with the cold storage units. When confronted, a submission was sought to be canvassed on behalf of the Applicant that those amounts were deposited as the wife of the Applicant imparts tuition. The explanation is too good to be believed.

19. The situation which thus obtains is that there are statements of the witnesses, who squarely incriminate the Applicant. Secondly, there is a clear acknowledgment that there was shortage of the pledged stocks in the godowns and the farmers were allowed to sell the pledged stocks without discharging the liability and

that the due amount, along with the interest and charges, would be paid. Thirdly, there is prima facie material to show that during the relevant period, huge amounts were credited to the account of the Applicant, which manifests wrongful gain.

20. The claim of parity with the Managing Director of CNX Corporation Limited, in the backdrop of the aforesaid material, is clearly misplaced. In the totality of the circumstances of the case, I am impelled to hold that the custodial interrogation of the Applicant is indispensable to unearth the fraud in all its facets and also to trace allegedly ill gotten money.

21. It is true that the Applicant is on interim protection since 11th October, 2019. However, in the backdrop of the nature of the accusation and overwhelming material, the said factor cannot be construed to insulate the Applicant from imperativeness of custodial interrogation.

22. I am, thus, inclined to reject the Applications. Hence, the following order :

ORDER

(i) The Applications stand rejected.

(ii) Interim protection granted in ABA No.2219 of 2019 by an order dated 11th October, 2019 and in ABA No.1194 of 2021 by an order dated 19th May, 2021 stands vacated.

(iii) It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR, J.)