IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2554 OF 2021

Madansinha Amarsinha Jadhav ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr.Umesh R. Mankapure for the Applicant.
Mr.R.M. Pethe, APP for the Respondent –State.
Mr.Shashikant Shelke, API, Malshiras Police Station, Solapur (Rural).

CORAM : C.V. BHADANG, J.

DATE : 6 JANUARY 2022
(Through Video Conferencing)

P.C.

. By this Application the Applicant is seeking anticipatory bail in connection with the Investigation of Crime No.423 of 2021 of Malshiras Police Station, District-Solapur under Section 420, 468, 471 and 473 read with Section 34 of the Indian Penal code.

2. The aforesaid offence is registered on the basis of the complaint lodged by Deepak Gore who is a Village Development Officer at Welapur. According to the informant the Agricultural Department at the Taluka level is Administering a Water Shed

Program and the funds of the Water Shed Program are deposited in a specified account with Bank of India, Branch Malshiras. As per a Government Resolution of the year 2016 the powers to operate the said account are with the Sarpanch, Gramsevak and one member of the self Help Group in the village.

3. It is the material prosecution case that as on 4 July 2021 there was an amount of Rs.5,82,135/- which was balance in the said account. However, on 29 July 2021 when the pass-book was got updated the account was found having a balance of Rs.268/-. On enquiry it was revealed that one Sachin Mohan Pawar, who is co-accused in this case, had on the basis of a forged letter dated 6 June 2021 from the Agricultural Department had withdrawn an amount of Rs.60,000/- in cash. It was further found that Sachin Pawar had given a cheque on 14 July 2021 for Rs.2,42,000/- in favour of the present Applicant and another cheque for Rs.2,79,867/- in the name of the wife of the Applicant Rohini Amarsinha Jadhav and the said amount was accordingly credited to the account of the Applicant and his wife. In short according to the prosecution there is a miss-appropriation of an amount of Rs.5,21,867/- in this account. On such a complaint being filed an offence is registered which is under investigation.

4. The learned counsel for the Applicant pointed out that the accused Sachin Pawar who had passed the cheque and

allegedly produced forged letter dated 6 June 2021 was arrested and has been released on regular bail. It is submitted that Applicant and his wife had certain amount which was recoverable from Sachin Pawar and the Applicant was under impression that cheques were issued by Sachin Pawar for returning the said amount. In short according to the Applicant he had no reason to believe that the cheques were issued from the account of Water Shed Program and that the Applicant has no complicity in the offence of the alleged mis-appropriation.

5. The learned counsel submitted that there is no recovery as such to be made of any document from the Applicant. However, the learned counsel on instructions stated that the Applicant would deposit the amount of Rs.2,42,000/-received by him as well as Rs.2,79,867/- received by his wife to show his *bona fides* and to ensure that there is no loss to the public exchequer.

6. The learned Additional Public Prosecutor has submitted that the forged and fabricated letter dated 6 June 2021 from the Agricultural Department was furnished to the Bank and on that basis the amount was withdrawn and the Applicant cannot be said to be unaware of such transaction.

7. I have considered the circumstances and the submissions made. *Prima facie* it appears that the cheques were issued by Sachin Pawar who was arrested and has already been released on bail.

8. Admittedly the Applicant has received an amount of Rs.2,42,000/- in his account and Rs.2,79,867/- has been credited to the account of his wife Rohini Jadhav which the Applicant has shown willingness to deposit.

9. Considering the nature of the allegations, the letter and the bank record could be obtained by the Investigating Officer without the custody of the present Applicant. Having regard to the fact that the amount is being deposited, at this stage there is no substantial loss to the public exchequer. Hence the following order.

ORDER

(i) In the event of his arrest in connection with investigation of Crime No.423 of 2021 of Malshiras Police Station, District-Solapur, the applicant shall be released on bail on executing a P.R. Bond in the sum of Rs.25,000/-with one or two solvent sureties in the like amount.

(ii) This shall be further subject to the condition that the Applicant shall deposit a total amount of Rs.5,21,867/- in account No.071110110021883 With Bank of India, Malshiras, District-Solapur, under intimation to the complainant within four weeks.

(iii) The Applicant shall co-operate with the Investigating Agency as and when required.

(iv) The applicant shall not tamper with the prosecution evidence/witnesses.

(v) In the event the amount is not deposited this order shall stand vacated without reference to the Court.

(vi) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.