

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

CRIMINAL APPLICATION (BA) NO. 283/2022
Vishal Rajendra Akankar...Versus...State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. Ashwin Deshpande, Advocate for applicant.
Ms. T.H.Udhesi, APP for respondent /State

CORAM : AVINASH G. GHAROTE, J.

DATE : 27/04/2022

In pursuance to the order dated 26.4.2022, learned APP makes a statement on instructions that the amount of Rs. 7,68,250/- has been deposited by the applicant with the complainant. The order dated 26.4.2022, reads as under:

“Heard Mr. Deshpande, learned counsel for the applicant and Ms. Udesi, learned APP for the non-applicant/State.

The applicant is arraigned for the offence punishable under Section 409 read with Section 34 of the Indian Penal Code in Crime No. 119/2022. The alleged incident is dated 18.01.2022. The applicant has been arrested on 03.03.2022. The matter is under investigation.

Mr. Deshpande, learned counsel for the applicant submits, that the applicant has been falsely implicated, as he has no role to play in the aforesaid crime. He submits, that even otherwise to show his *bonafides*, the applicant has deposited Rs.

7,68,250/- with the CMS Infosystem Company Limited, which was engaged by the Bank to deposit cash in the ATMs, and therefore, the amount alleged to have been misappropriated by the applicant stands secured, as the same is deposited. He submits, that the applicant was merely an employee of the CMS Infosystem Company Limited and there is no defalcation on his part, and therefore, he is entitled to bail.

Ms. Udeshi, learned APP for the non-applicant/ State, opposes the application and submits, that the role of the applicant in the aforesaid crime cannot be ruled out, considering that the applicant has been hired by the CMS Infosystem Company Limited, who was engaged by various Banks to transfer cash from the Bank to the ATMs placed at various places. She therefore submits, that the application needs to be rejected.

The record indicates, that on 03.03.2022, a complaint came to be lodged by the Branch Manager of CMS Infosystem Company Limited, Akola, contending that the applicant as well as the co-accused were hired by the Company, and given the work of depositing cash in various ATMs in city. On 18.01.2022, when the complainant alongwith the auditor had made an inspection of various ATMs, shortage of funds to the tune of Rs.15,36,500/- was found. Since, the job was entrusted to the applicant and the co-accused, they were held liable for the short fall. It is also material to note, that there are no documents to indicate as to when the earlier deposits were made in the ATMs and the amounts which were deposited so as to determine short-fall which is attributed to the applicant. Even otherwise, the applicant, to show his *bonafides* has deposited an amount of Rs.7,68,250/-, to demonstrate the same, a

document purported to be an agreement dated 25.04.2022 alongwith a receipt claimed to have been issued by CMS Infosystem Company Limited has been tendered across the bar. The documents are taken on record, however learned APP for the non-applicant/State is directed to verify the veracity of these documents and make a statement.

List the matter **tomorrow** i.e. on **27.04.2022.**”

In light of what has been discussed in the order dated 26.4.2022, in my considered opinion, a case for bail is made out. Hence the following order.

O R D E R

I] Application is allowed.

II] The applicant Vishal Rajendra Akankar, be released on bail in Crime No. 119/2022 registered by the Police Station Khamgaon City, Dist. Buldhana, for the offence under Section 409 r/w 34 of the IPC, on his executing PR bond in the sum of Rs.50,000/- with two solvent sureties of the like amount.

III] The applicant shall not tamper the prosecution evidence or try to undue influence the prosecution witnesses directly or indirectly in any manner.

IV] The applicant shall attend the Police Station Khamgaon City, Dist. Buldhana, as and when required by the

I.O. for the purpose of investigation.

V] Any violation of the above conditions shall result
in cancellation of bail.

Rvjalit

JUDGE