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

CRIMINAL APPLICATION (ABA) NO.796 OF 2021
(UMESHKUMAR HETRAM KAPGATE...VS...STATE OF MAH. THR. PSO PS PAUNI, DIST. BHANDARA.)

WITH

CRIMINAL APPLICATION (ABA) NO.799 OF 2021
(ASHISH BHIMRAO ATEY...VS.. STATE OF MAH. THR. PSO PS PAUNI, DIST. BHANDARA.)

WITH

CRIMINAL APPLICATION (ABA) NO.801 OF 2021
(DURGESH HARIRAM BHONGADE...VS..TATE OF MAH. THR. PSO PS PAUNI, DIST. BHANDARA.)

WITH

CRIMINAL APPLICATION (ABA) NO.802 OF 2021
(KAMALKAR TULSHIRAMJI DHARMIK..VS.STATE OF MAH.THR.PSO PS PAUNI, DIST. BHANDARA.)

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

Shri D.V.Mahajan, Advocate for Applicant in ABA 796/2021.
Shri C.B.Barve, Advocate for Applicant in ABA 799/2021.
Shri R.A.Bhandakkar, Advocate for Applicant in ABA 801/2021.
Shri N.R.Bhishikar, Advocate for Applicant in ABA 802/2021.
Ms Trupti Udeshi, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : MARCH 01, 2022.

1. Heard.

2. In all these applications the applicants are seeking pre-arrest bail in Crime No.297/2021, registered with Police Station, Pauni, under Sections 420, 465, 467, 468, 409 read with Section 34 of the Indian Penal Code and Section 66D of the Information Technology Act, 2000.

3. The applicant Umeshkumar Kapgate claims that he was working as Branch Manager at Asegaon from 09/08/2018 to 18/06/2021. The applicant-Kamlakar

Dharmik is claiming that he was working as Assistant Manager with Central Bank of India, Asegaon Branch during the period from 21/08/2019 to 20/07/2021. The applicant-Ashish Hatey is claiming that he was working as Assistant Branch Manager during the period from 29/04/2016 to 31/07/2019 and the applicant Durgesh Bhongade is claiming that he was working with CSC Company who provides E-Governance Service to the Bank and he was working as D.C. Manager.

4. The allegation in this matter is that one Padole in connivance with the applicants has defrauded an amount of more than Rupees Two Crores of various customers of the Bank, who are the poor villagers.

5. Shri Mahajan, learned counsel appearing for the applicant-Umeshkumar Kapgate submits that he is not connected with the alleged offence. It is submitted that the main accused Padole is responsible and he is absconding. It is submitted that there is no incriminating material against the applicant Umesh Kapgate to show the involvement of the accused in the alleged offence. It is submitted that for no reason he has been falsely implicated in the alleged offence.

6. Shri Bhishikar, learned counsel appearing for the applicant-Kamlakar Dharmik submits that he was working as Assistant Branch Manager and the Branch Manager had control over the Branch. He submitted that the main

accused Padole is the only person who is responsible for the alleged defalcation of the huge amount and the applicant-Kamlakar Dharmik is no-way concerned with it. It is submitted that there is no incriminating material available on record to show the involvement of the applicant in the alleged offence.

7. Shri Barve, learned counsel for the applicant-Ashish Bhimrao Atey reiterated the submissions of Shri Mahajan and Shri Bhishikar, learned counsel for the co-applicants, and in addition submits that there is no statement recorded by the prosecution wherein the applicant was named and mentioned the role played by the applicants in the alleged offence.

8. Shri Bhandakkar, learned counsel appearing for the applicant-Durgesh Hariram Bhongade submits that he is not an employee of the Bank and therefore, the sections of Indian Penal Code, which are made applicable in this case, are not applicable to the present applicant. However, only because of Section 34, the prosecution is asking for his custody. He has drawn attention of the Court to the appointment order and the agreement between the Bank and the service provider and thereby he tried to impress upon this Court that he was not the superior of the main accused Padole and therefore, he cannot be held responsible for any act committed by the main accused Padole.

9. The learned counsel for all the applicants have stated that in view of the ad-interim anticipatory bail granted to them they have attended the Police Station regularly as directed by this Court and their custody is no more required in the alleged offence. Accordingly, they have prayed for confirmation of the ad-interim anticipatory bail granted to them.

10. On the other hand, Ms Udeshi, learned A.P.P. strongly opposed the application. The learned APP has drawn attention of this Court to the statements recorded during the investigation and also other relevant material collected by the Investigating Officer during the investigation. She vehemently submits that in this case the amount of more than Rupees Two Crores is involved and it is not possible for the main accused Padole to defalcate such a big amount without the help of the Branch Manager, Assistant Branch Manager and other superiors. She, therefore, submits that looking to the allegations made in the FIR and also in view of the incriminating material collected by the Investigating Officer during the investigation, custody of the applicants is necessary for further investigation and without the custody of the applicant, it is difficult to complete the investigation.

11. On perusal of the case diary and also the allegations made in the FIR, it is revealed that during the investigation the Investigating Officer has collected

sufficient incriminating material which *prima faice* shows the involvement of the applicants in the alleged offence. Looking to the nature of the allegations and the severity of the offence, I am of the opinion that the present applications need to be rejected.

All the Criminal Applications are **rejected**.

JUDGE

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