IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION (ABA) NO.696 OF 2022

Ranjay s/o Yograj Bawankar Vs. State of Maharashtra, through PSO, PS Goregaon, Dist. Gondia

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

Shri C.S. Sharma, Advocate for applicant(s).
Shri S.M. Ghodeswar, APP for non-applicant.

CORAM : G.A. SANAP, J.
DATE : NOVEMBER 10, 2022.

The applicant (accused no.25) apprehends his arrest in Crime No.284/2022 registered with Police Station, Goregaon, District Gondia for the offences punishable under Sections 406, 408, 409, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. It is the case of the applicant that he has not committed any offence as alleged. In the F.I.R. initially, his name was not mentioned. He has been falsely arrayed as accused no.25 in the crime subsequently. He is innocent. In order to save the real offenders he is being made a scapegoat. He is ready to cooperate with the police in the investigation. He is also ready to abide by the conditions that may be imposed by this Court.

3. The State through the investigating officer has filed the reply and opposed the application. It is contended that the applicant is the main brain behind the commission of the serious crime. The crime came to the light on receipt the report of the Sub-District Auditor. The total amount misappropriated in the crime is ₹3,77,48,600/-. The amount

has been misappropriated by forging 7/12 extracts of the farmers. The paddy is shown to have been purchased in violation of the Rules. The total amount of ₹1,62,57,894/- has been transferred to the account of the applicant from both the centers in respect of 193 farmers. His bank account has been freezed. The amount has been withdrawn from the bank account. It is further stated that out of ₹3,77,48,600/- the net amount misappropriated by this accused is ₹2,50,22,142/-. In order to go to the root of the conspiracy thorough investigation is necessary. The grant of bail would frustrate the investigation. It is therefore submitted that this is not a fit case to grant protection from arrest to the applicant.

4. I have heard the learned advocate for the applicant and learned APP for the State. Perused the case diary and available record.

5. The learned advocate for the applicant submitted that some of the accused in this crime have been granted either anticipatory bail or regular bail and therefore by invoking the principle of parity the applicant is entitled for anticipatory bail. The learned advocate took me through some of the orders and submitted that similarly circumstanced accused have been granted protection from arrest.

6. Learned APP submitted that the ground of parity is not at all available to this applicant inasmuch as the applicant is the brain behind this crime and the main beneficiary of the

misappropriated amount. The learned APP on the basis of the facts recorded in those orders submitted that the facts of the case of the applicant and facts of the cases of those accused are not comparable.

7. On perusal of the case diary and particularly the bank account statement of the applicant, I am in full agreement with the submissions advanced by the learned APP. In the facts and situation, the applicant cannot invoke the principle of parity.

8. It is to be noted that the intricacies of the investigation in economic crime need to be kept in mind while deciding anticipatory bail application. The success of the case of the prosecution or facts leading to the innocence of the accused depends upon the fair, honest and thorough investigation. The investigation not only helps the informant, but if conducted fairly and honestly, can substantiate the contention of the accused. The investigation in such crime has its own nitty-gritty. The skill of the investigator is fully tested. The protection by way of anticipatory bail in economic offences or in the offences involving forgery and misappropriation of amount can scuttle the investigation if the investigating officer is not granted reasonable opportunity to interrogate the accused.

9. In this case, it has been categorically stated that the applicant-accused no.25 is the main brain behind the commission of the crime. As per the case of the prosecution, there was pre-planned conspiracy to misappropriate the

amount. The documents were forged. A huge amount of ₹1,62,57,894/- was transferred to the account of the applicant(accused no.25), which was to be paid from two paddy centers to 193 farmers. The investigation in the crime of forgery has different shades and angles. It requires collection of documents, examination of documents and confrontation of the documents with the person responsible for the forgery of the documents. In my view, therefore, main accused in such a crime needs to be thoroughly probed during the interrogation about the real state of affairs. In my opinion, unless and until the investigating officer goes to the root of the case it become difficult to unearth the truth. The indulgence of the nature sought for by the applicant if granted at nascent stage of the crime can weaken the case of the prosecution. It is to be noted that in crime involving creation of false documents/forgery the Court should be circumspect in granting the anticipatory bail. On the basis of the facts placed on record, I am fully satisfied that unless and until the custodial interrogation of the applicant(accused no.25) takes place, the investigating officer would not be able to complete the fair, honest and thorough investigation. In the facts and circumstances, I am of the view that this is not a fit case to grant anticipatory bail to the accused. Hence, the application is rejected.

JUDGE

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