

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

Anticipatory Bail Application (ABA) No. 704 of 2022

Iqbal Ismail Veljee

Versus

State of Maharashtra, through Police Station Sakkardhara, Nagpur

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

Court's or Judge's Order

Shri S.P. Dharmadhikari, Senior Advocate assisted by
Shri D.N.Mehta, Advocate for the applicant.

Shri V.A.Thakare, APP for the State / Non-applicant

Shri S.P.Bodalkar, Advocate for the non-applicant no.2.

CORAM : ANIL S. KILOR, J.

Reserved on : 12th December, 2022.

Pronounced on : 21st DECEMBER, 2022.

The applicant is seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure in Crime No. 460 of 2022 registered with Police Station Sakkardhara, Dist. Nagpur for the offence punishable under Sections 409, 420 and read with Section 34 of Indian Penal Code.

2. The prosecution case is that the informant is the Secretary of Sufi Sant Hajrat Baba Tajaddin Trust. The said trust was formed in the year 1962. As per the order passed by the learned District Judge, Nagpur-9

trustees were appointed for the purpose of three years who are having different faiths. In the year 2001, as per the order passed by the learned District Judge, Nagpur nine persons came to be appointed and in the said body the accused no.1 namely Sheikh Hussain Abdul Jabbar was the President whereas the accused no.2 Iqbal Ismail Veljee (present applicant) was the Secretary. There were various complaints against the functioning of the accused persons therefore after taking cognizance of the said complaints the learned District Judge, Nagpur vide order dated 15th October, 2016 was pleased to appoint retired District and Sessions Judge, Shri Kudbe as Administrator on the said trust.

3. The said administrator looked after the management from 2016 to 2021. Thereafter, new body came to be elected wherein informant came to be elected as Secretary. In the audit report it was found that, the accused persons have misappropriated the funds of the trust. It was found that the accused persons without obtaining any permission from the Charity Commissioner have misappropriated the amount of Rs.1,48,00,379 to the account of President Sheikh Hussan Abdul Jabbar and the amount of Rs.11,52,207/- to the account of Secretary Iqbail Ismail Veljee (Present applicant) was credited. Therefore, the First

Information Report came to be registered vide Crime No. 460 of 2022 for the offence punishable under Sections 409, 420 read with Section 34 of the Indian Penal Code.

4. Shri Dharmadhikari, learned Senior Advocate submits that though in the First Information there are allegations that the amount to the tune of Rs.11,52,207/- was transferred from the account of the Trust to the personal account of the applicant, but there is no document or bank statement to show any such transfer.

5. It is submitted that the change of hands after election of the Managing body of the Trust, is the only reason to falsely implicated the applicant in the alleged offence.

6. It is submitted that even if the amount as stated in the First Information Report, allegedly the applicant has misappropriated, is compared with the total period, then the amount comes to Rs.3,500/- per month.

7. It is submitted that, mere transfer of amount to personal account or withdrawal of it from the Trust account by the applicant cannot be termed as amount misappropriated.

8. It is submitted that Auditor never called upon the Trustee to explain any such objection about non accounted amount. It is therefore submitted that the applicant is falsely implicated in the alleged offence.

9. It is lastly argues that the complete record is in possession of the Investigating Officer and therefore custodial interrogation of the applicant is not necessary.

10. On the other hand, Shri Thakare, learned Additional Public Prosecutor strongly opposed the present application and submits that there is sufficient material on record to show the involvement of the applicant in the alleged offence of misappropriation of huge funds of the Trust. Accordingly, he prays for rejection of the present application.

11. Shri Bodalkar, learned counsel who is assisting to prosecution on behalf of informant reiterates the submission of the learned Additional Public Prosecutor.

12. I have perused the case diary and the application.

13. It can be revealed from the case diary that a Trust namely Sufi Sant Hajrat Baba Tajuddin Trust is a religious Trust and the period of misappropriation of its funds is from 2011-2016, during which the applicant was Secretary of the Trust.

14. During the investigation, it is further revealed that Rs.1,25,00,000/- were transferred from the accounts of the Trust to the personal account of the then President of the Trust, Sheikh Hussain S/o Abdul Jabbar.

15. From the case diary it is further revealed that the cheques which were issued in the name of Sheikh Hussain S/o Abdul Jabbar were signed by the applicant as a Secretary.

16. Though, nothing has been pointed out in this crime that any amount was transferred in the personal account of the applicant, however, while rejecting the bail application of Sheikh Hussain S/o Abdul Jabbar former Chairman of the Trust, this Court has taken a view that the Trust is a religious trust and the amount received by such a Trust must be accounted for and as there are allegations of misappropriation of trust's amount, proper and thorough investigation is necessary and for which custodial interrogation is necessary.

17. Signatures of the applicant on the cheques issued in the name of the former Chairman and thereby transferred of huge amount in his personal account

prima facie shows involvement of the applicant in the alleged offence. In the circumstances, I am of the opinion that this is not a fit case for grant of pre-arrest bail. Accordingly, I pass the following order.

- i. Criminal application is rejected.

[ANIL S. KILOR, J.]

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K NAIR

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