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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.179 OF 2023

Shashikant Baburao Chavan

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. Nitin Bhavar Patil, Advocate for the applicant
Mrs. R. P. Gour, APP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th FEBRUARY, 2023

ORDER :

1. Applicant apprehends arrest in Crime No. 794 of 2022 registered with Taluka Jalna Police Station, District – Jalna for offence punishable under section 420, 409 of the Indian Penal Code.
2. FIR is lodged by Police Inspector, Taluka Police Station, Jalna, alleging that the applicant was serving as Police Head Constable and was attached to Taluka Police Station, Jalna and was in charge of Muddemal section of the said police station. Later, he was transferred to Ambad Police Station, but he did not hand over charge of the Muddemal Section of Jalna Taluka Police Station to the concerned Police Head Constable B. No. 1185 Shri.

G. V. Aghav. Thereafter, the applicant remained absent from duty for a long time. An inquiry was initiated and it was found that the applicant being Police Head Constable and while he was in charge of the Muddemal Section and had domain over the ordinary and valuable properties, has committed offence of criminal breach of trust and has misappropriated cash amount as well as gold ornaments.

3. Heard learned advocate for the applicant and the learned Additional Public Prosecutor. Perused the papers of investigation.

4. Learned advocate for the applicant strenuously submits that at no point of time, the applicant was ever given charge of Muddemal section in writing. While the applicant was on leave, as he had suffered paralytic attack, one Mr. Pawar was looking after the Muddemal section. The applicant has nothing to do with the alleged misappropriation and cheating. In fact, Mr. Pawar is responsible and / or answerable for the alleged misappropriation and criminal breach of trust.

5. The application is vehemently opposed by the learned Additional Public Prosecutor contending that the applicant has committed misappropriation of Muddemal property worth Rs.16,55,991/- which was entrusted with him. The applicant

being government servant, has committed serious offence and for effecting recovery his custody is necessary. Hence he is not entitled for the discretionary relief of anticipatory bail.

6. From perusal of the investigation papers it appears that preliminary inquiry was conducted by the Sub Divisional Police Officer, Sub Division, Jalna, wherein it was found that the applicant has misappropriated the gold ornaments and replaced gold ingots with silver ingots. A total cash amount of Rs.18,22,590/- was sized in various crimes, however, in the government account only an amount of Rs.10,17,696/- was deposited. Hence, the applicant has misappropriated an amount of Rs.8,04,894. On inspection of GN receipt book, there were no receipts of deposit of an amount of Rs.4,62,384/- and Rs.38,813/-. Thus, there is no account of Rs.8,51,097/-. The GN receipt book, prior to the year 2017 is not available on record. The applicant has written cash book from 2015 to 2018. Thereafter, no cash book is written. There are no entries of receipts and expenditure. The cash distribution register, bill barnishi register, inspection fund register are not found on record.

7. The applicant was relieved from Ambad Police Station for handing over charge of Muddemal section of Taluka Police

Station, Jalna on 25th October, 2021. However, he remained present only for 4 days and thereafter remained absent from duty for about 11 months.

8. Involvement of the applicant in the commission of the offence of criminal breach of trust and cheating is clear from the record. For effective investigation, custody of the applicant is necessary.

9. The applicant, in the facts of the case, does not deserve discretionary relief of anticipatory bail. The application is therefore, rejected.

[NITIN B. SURYAWANSHI]
JUDGE