IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 302 OF 2023

Anuradha Ganesh Joshi ..APPLICANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

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Mr. P.P. More, Advocate for applicant
Mr. A.S. Shinde, A.P.P. for respondents

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CORAM : R.G. AVACHAT, J.
DATE : 31st MARCH, 2023

PER COURT :

1. This is an application under Section 438 of Code of Criminal Procedure. The applicant claims to have an apprehension of being arrested in connection with Crime No. 209 of 2022 registered with M.I.D.C. Police Station, Dist. Latur for the offences punishable under Sections 406, 408, 467, 468, 471 and 506 read with Section 34 of the Indian Penal Code.

2. Heard. Perused First Information Report ("F.I.R.") and related police papers.

3. F.I.R. has been lodged by one Arun Nawale on 15th April, 2022. It is his case that he was serving with "C'Lai", a firm in the business of ready-made garments. The firm has a chain of garment shops at various places in

the Maharashtra State. One of such shop is at Latur. The applicant herein and six others named in the F.I.R. were serving in the shop at Latur. During the period from August 2020 to March, 2021 the applicant and co-accused named in the F.I.R. sold ready-made garments and clothes but did not account for the same. In short, the allegations are that the garments and clothes were sold on the basis of masked receipts. In some cases even the receipts have not been issued. When the stock of the garments and clothes was checked time to time, it was realised that the applicant and co-accused misappropriated a sum of Rs.34,72,071/-, which they were supposed to credit in the bank account of the firm-shop. The applicant was allegedly serving as Department Manager. The informant lodged the F.I.R. after the internal audit of the stock and transactions was made.

4. Learned counsel for the applicant would submit that the applicant is a woman. She was serving in the said shop. The nature of her job was to lookafter one of the sections in the shop. She was in no way concerned with the monetary transactions. On sale of clothes, the concerned customer would pay bill amount at the cash counter. When this Court called upon the applicant whether she was ready to deposit some of the amount, learned counsel would submit that her financial situation is such that she would not be able to pay even Rs.100/-. According to learned counsel, the allegations in the F.I.R. indicate that the management of the shop has grievance mainly

against the store manager – Khuddus Abdul Samad (Accused No.1). The F.I.R. itself indicates that even after having realised the alleged offence, the management kept him in service. There is delay of about one year in lodging the F.I.R. He, therefore, urged for grant of the application.

5. Learned A.P.P. would, on the other hand, submit that no recovery has been made from any of the accused. The applicant has been named in the F.I.R. The applicant and co-accused committed the offence in furtherance of their common intention. For recovery of goods or money, custodial interrogation of the applicant is required. He would, therefore, urge for rejection of the application.

6. Considered the submissions advanced. The F.I.R. has been lodged on 15th April, 2022 in relation to the offence that took place between August 2020 to March 2021. As such, there is delay of little over one year in lodging of the F.I.R. It has been alleged in the F.I.R. itself that offence was committed by store manager - Khuddus Abdul Samad (Accused No.1). The applicant and other employees working in the shop were alleged to have assisted him in the crime. *Modus operandi* of the crime is said to be that price of the sold garments has not been credited to the bank account of the shop/firm. Sometimes customer was allowed to take away garments without making any payment across the counter. The same suggests that customer would pay the

accused persons money later on. It is evident from the F.I.R. itself that inspite of the crime to have come to light, management allowed to continue the Stock Manager in service. Explanation offered thereon is that he had agreed to make good the loss suffered by the firm. It is only when he refused to pay the money allegedly misappropriated, the F.I.R. has been lodged. The applicant is a woman. She has not been attributed with any specific role in what way she has committed the offence. The main suspect is the stock manager - Khuddus Abdul Samad (Accused No.1). It appears that there is no headway in the investigation. One of the co-accused is said to have stated in his statement that he used to take away the garments out of the shop on the say of the applicant and other co-accused.

7. It is reiterated that the offence is alleged to have been committed by the store manager - Khuddus Abdul Samad (Accused No.1). The applicant and other co-accused are alleged to have assisted him. When as per the case of the informant himself that Store Manager was continued in service since he had agreed to make good the loss suffered by the firm and the same was accepted by the management, same suggests the applicant to have not played role of a prime accused. The applicant has been protected by this Court. The facts and circumstances of the case lead this Court to confirm the said order.

8. In view of above, application is allowed. Order dated 03rd March, 2023, granting the applicant interim anticipatory bail, is hereby made absolute. The applicant shall appear before the investigating officer, as and when required for the investigating purpose. The applicant shall not tamper with the prosecution evidence.

(R.G. AVACHAT, J.)

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