

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 613 OF 2023

Manoj Gopoal Limaye

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. M. S. Kulkarni h/f Mr. A. N. Sikchi, Advocate for
the Applicants.

Mr. G. O. Watamwar, APP for Respondent – State.

CORAM : R.M. JOSHI, J.

DATE : JULY 21, 2023

ORDER

1. Applicant, who is Executive Director of Jalgaon District Co-operative Milk Product Society Ltd, Jalgaon (for short 'Society'), apprehends arrest in connection with Crime No. 335/2023 registered with Jalgaon City Police Station for the offences punishable under Sections 420, 407, 409, 467, 468, 471 and 120B of Indian Penal Code.

2. API Pardeshi lodged report on behalf of the State contending that on 11.10.2022 MLA Mangesh Chavan gave an application with regard to the misappropriation of 14 ton butter and 8 to 9 Ton milk powder in the said

society. In the said information, statement of present Applicant is also referred. On 08.10.2022 Applicant had directed verification of the stock of white butter and it was found that there was discrepancy to the extent of 14 ton. Similarly, discrepancy is found of about 9 mt. Ton of milk power. A preliminary inquiry was made in respect of these complaints and Ashok, Ambilkar, Mahendra and Kedar were suspended for the same by Applicant. During the course of investigation of crime by police it was found that the present Applicant is also involved in the said misappropriation.

3. Learned Counsel for the Applicant states that Applicant is no more in the service of the said society as he has already resigned. It his further contention that the Applicant is falsely implicated in this crime for protecting the vested interest of some people. It is stated that in fact Applicant was the person who had raised the issue about the said misappropriation and had lodged complaint with concerned police station on 19.10.2022 and also filed application with JMFC, Jalgaon under Section 156(3) of Cr.P.C. It is contended that though learned JMFC had ordered for registration

of the offence, the concerned police station instead of registering the offence has lodged report on the basis of application given by MLA. It is his contention that those employees who were suspended after noticing their *prima facie* involvement in the crime are made witnesses in order to falsely implicate him. It is submitted that the verification of the stock was done by the Applicant himself and that he has found out the discrepancy in the record and, therefore, the action against present Applicant is wholly unjustified and he deserves pre-arrest bail.

4. Learned APP opposed the said submissions by stating that the order passed by learned Magistrate came to the notice of concerned police station only after registration of the crime and hence, there is no substance in the contention that deliberately no offence was registered pursuant to the order of Magistrate and at the instance of MLA report was lodged. It is further contended that in the inquiry conducted on the basis of the said report statements of witnesses were recorded and that these statements are duly supported by the material documents on record as

well as CCTV footage.

5. Merely because Applicant has lodged complaint in respect of the misappropriation, *per se* that would not mean that Applicant's involvement in the crime is completely ruled out. In order to consider the objection raised by the Applicant about non-registration of the crime pursuant to the order passed by Magistrate, this Court has *prima facie* verified the relevant facts and has come to the conclusion that the concerned police station got knowledge of the said order only after registration of crime. It is also brought on record that there was pressure from public at large for the purpose of registration of crime and hence, its registration at 03.00 am in the morning cannot be considered as circumstances showing false implication of applicant in this crime.

6. No doubt, Applicant had made complaint to the concern police station as well as filed an application under Section 156(3) Cr.P.C before JMFC, Jalgaon for registration of the crime but *prima facie* perusal of the material placed on record indicates strong possibility of the involvement of the present Applicant

in the said misappropriation. Since statements of witnesses relied upon in the inquiry include statements of suspended employees by applicant and this Court, therefore, needs to consider their statement with pinch of salt. Had there been only oral statements of witnesses unsupported by any material on record, there was reason and justification to discard the same at this stage. The statements made by these witnesses describe the role of the present Applicant in this crime as well as the same gets support from the material documents placed on record, such as CCTV footage and bills in respect of transaction pertaining to Shubham Food Pvt. Ltd and Telangana State Dairy Development Corporation. There is further allegation that on the basis of bogus resolution present Applicant and others committed misappropriation and caused loss to the milk society.

7. *Prima facie* perusal of the record clearly shows that this is a case wherein misappropriation to the tune of Rs. 1,15,00,000/- has been committed. Perusal of the record shows that involvement of the Applicant cannot be excluded therefrom. There is

substance in the contention of the prosecution that in order to unearth the said misappropriation and to find out the money trail, the custodial interrogation of the Applicant is necessary.

8. In view of above, Application stands dismissed.

9. Learned Counsel for the Applicant states that Applicant is protected by interim order dated 03rd May, 2023 and he seeks extension thereof by three weeks.

10. Learned APP opposes the said request.

11. Since the Applicant is enjoying interim protection by virtue of interim order passed by this Court, the same is extended for the period of three weeks.

(R.M. JOSHI, J.)

Malani