2023:BHC-AUG:27190

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1225 OF 2023

CHARAN SAHEBRAO GHADGE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. P. D. Bachate, Advocate for the applicant
Mr. N. B. Patil, APP for the respondent/State
Mr. N. B. Narwade, Advocate for the informant

CORAM : R. M. JOSHI, J.
DATE : 21st DECEMBER, 2023

P.C. :-

1. Heard.

2. Applicant apprehends arrest in connection with Crime No. 192 of 2023 registered with Jamkhed Police Station, Dist. Ahmednagar for the offences punishable under Sections 420, 406, 120B, 465, 467, 471, 34 of IPC.

3. First informant Bapusaheb Ghadge reported to the police about he entering into a partnership firm with the applicant for the purpose of transport business. According to him, they decided to purchase a vehicle. Informant transferred sum of Rs. 1,40,000/- and also paid Rs.60,000/- for the purchase of said vehicle. It is his allegation that the applicant has obtained his signatures on cheques and other documents at the time of

purchase of said vehicle. It is further alleged that though the business started, applicant failed to share the income from the said business with the informant. There is allegation that the applicant created false and bogus documents in respect of the partnership firm. On the basis of an application filed under Section 153 of Cr.P.C. order came to be passed by the learned Magistrate rejecting the said application. The said order was carried in revision wherein the revisional Court allowed the application and directed registration of crime and pursuant thereto present crime came to be registered.

3. Learned counsel for the applicant submits that from the first information report itself it is clear that there is a partnership between the applicant and informant and the business which has come into existence on 17th November, 2020 It is his contention that it was the applicant who had obtained loan and also has paid the amount towards purchase of the vehicle. It is his contention that as per the partnership agreement if there is dispute between the partners with regard to the business of the firm, arbitration clause is provided. He drew attention of the Court to the order passed by the Revisional Court wherein also specific observation is made about the dispute being civil in nature.

4. Learned counsel for the informant and learned APP opposed the

application. It is the submission of the learned counsel for the informant that there are allegation made against the applicant of fabricating record. During the course of argument, it is submitted that the informant had created bogus account in the name of the partnership firm, however, when he was called upon to point out any such allegation in the first information report or in any correspondence, he was not able to point out so. He further argued that there is report lodged against present applicant by the brother of the informant for causing of assault on their father. It is submitted that the custody of the applicant is necessary for the purpose of investigation about the creation of bogus document by him.

5. The first information report as well as the document placed on record clearly indicates that it is a case wherein applicant and informant had formed a partnership firm on 17th November, 2020 for the purpose of transport business. It is further documentary evidence on record which indicates that the informant had financed purchase of vehicle on behalf of the firm. There is allegation against the applicant that he did not share income of the business with the informant. Though vague allegations are made with regard to the fabrication of document, there is nothing to show that the these documents are created or fabricated by the applicant. As far as the opening of another account by the applicant is

concerned, the investigation papers show that the said account is in individual name of the applicant, which cannot be called as a fabrication or creation of bogus document. It is clear from the allegations made on record that the grievance of the informant is of not receiving the income of the partnership firm, if it is so he has remedy available in law. The criminal proceedings cannot be used for the purpose of recovery of money involved in a civil dispute. Though it is argued on behalf of the informant that the informant does not wish to recover money in this proceeding, however, there is no other reason shown for which the custodial interrogation of the applicant would be necessary. Having regard to facts and circumstances of the case, application is allowed in terms of interim order dated 25th July, 2023.

6. Pending Application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp