

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1369 OF 2023

KANCHAN HIRALAL PARDESHI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

Mr. A. P. Avhad and S. K. Ashraf Patel, Advocate for
the Applicants.

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

CORAM : R.M. JOSHI, J.

DATE : AUGUST 31, 2023

ORDER

1. Applicants apprehend arrest in connection with Crime No. 523 of 2023 registered with MIDC Waluj Police Station, dist. Aurangabad for the offences punishable under Section 408 and Section 34 of the Indian Penal Code.

2. First information report indicates that Applicant No. 1 is working as Operation Manager in the company for the last four years and Applicant No. 2 is Store Manager. It is alleged therein that on 07.06.2021 when audit was done of the record on computer, it was found that the material sold by the company does not tally with the stock. It was,

therefore, revealed that there was misappropriation in the company. In this regard, Applicant No. 1 was questioned but she refused of commission of any such crime. However, later on she admitted to have sold Polycab copper wire by tampering with the data. It is also alleged that Applicant No. 2 in collusion with Applicant No. 1 has removed the material from the godown of the company and sold the same and thereby caused misappropriation of Rs. 24,91,434/-. It is also stated in the report that both admitted their guilt and agreed to repay the amount, however, except for the sum of Rs. 9 lacs, the remaining amount is not paid. Thereafter, they became not traceable. Hence, report came to be lodged.

3. Learned Counsel for the Applicants submits that the duty of the Applicant No. 1 was just to process the purchase order and that she had no access to computer in order to change record. It is submitted that the Head of the Department was responsible for the order as well as the distribution of the material. He further contends that the allegations against them that they used to come in the company on Sunday, is false as

they were called by the head of the company Mr. Kale. It is submitted that for want of any evidence against them, they are entitled for anticipatory bail. Bail is also sought on the ground that the Applicant No. 1 is lady.

4. Learned APP opposed the said submissions by contending that *prima facie* there is more than sufficient evidence on record to indicate the involvement of the Applicants in the crime. It is submitted that the evidence indicates about tampering of the computer entries in respect of the purchase orders received by the company. It is alleged that the Applicant No. 1 used to reduce the quantity of the order and increase price, thereby both Applicants were able to take out more material from godown than it was to be supplied to the purchaser. It is submitted that there is admission of guilt of the Applicant No. 1 which is witnessed by other employees. It is also submitted that there is transcript of CCTV footage which shows that the Applicant No. 1 used to switch off CCTV camera at the time of removal of the material. It is submitted that for the purpose of recovery of the

said material as well as for recovery of money, the custodial interrogation of the Applicants is necessary.

5. Merely because Applicant No. 1 is a woman, that cannot become sole ground for grant of pre-arrest bail. *Prima facie* perusal of the investigation papers indicates that the purchase order used to be tampered with by reducing the quantity of the copper wire and increasing the price thereof. Thus, by doing so, the extra material could be removed from the godown which is not accounted for. There is no dispute about the fact that Applicant No. 1 is responsible for processing of the said order and Applicant No. 2 was required to take out the said material from godown for its further transportation. There is documentary evidence to show that the manipulation is done in the record by reducing the quantity and increasing the price of the material. The transcript of CCTV footage indicates that the Applicant No. 1 is seen switching off CCTV camera and without any explanation as to the reason for which it was switched off, at this stage, it has to be accepted the same is done in order to facilitate Applicant No. 2 for removal of extra material from the godown of the

company.

6. There is statement of Applicant No. 1 given to the company admitting guilt and requesting for not taking action against her. There is also material to indicate that the Applicants had deposited part of the misappropriated amount into the account of company. All these facts clearly indicate *prima facie* involvement of the Applicants in the crime. There is substance in the contention of learned APP that for the purpose of recovery of material as well as for the purpose of recovery of the amounts misappropriated, custodial interrogation of the Applicants would be necessary.

7. In view of above discussion, Application stands dismissed.

(R.M. JOSHI, J.)

Malani