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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 505 OF 2023

Amit Ashokrao Jadhav … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 478 OF 2023

Harichandra Ramakant Salunkhe … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 479 OF 2023

Ravindra Haibatrao Khade … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Sudatta Patil a/w Ms. Priyanka Rane Patel, for the Applicant in ABA No.505 of 2023.

Mr. Vikram Parmar, for the Applicant in ABA Nos.478 & 479 of 2023.

Mrs. Rutuja Ambekar, APP for the State/Respondent No.1.

Ms. Lucy Massey a/w Ms. Sheetal Gupta and Mercy Thomas, for Respondent No.2/original complainant.

CORAM : AMIT BORKAR, J.

DATED : JULY 10, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.27 of 20223 registered with Shahuwadi police station for offences punishable under Sections 406, 420, 467, 468, 471, 474 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), applicant in all bail applications is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. According to the prosecution, the informant started a company in the name as Triveni Builders & Developers at Kolhapur since the year 2014. He had taken a land at Village Bambawade, Taluka Shahuwadi for development. The informant along with his friends/partners established one Triveni Infra Project Pvt. Ltd. In this business the informant was having share of 70% and his partners were having share of 10% each. The informant is residing at Mumbai. Partners were looking after the same. In July 2017, the informant inquired with the Directors Nitin Kumbhar & Umesh Bharate who informed him that partner Amit Jadhav has restrained them for turning to site of development. He inquired with Amit, but he declined to give account. The informant inquired with the C.A. Khandekar. He informed that, Amit is looking after the work. There were differences between them. In the year 2018, again differences arose. Amit had not kept any account. The informant had invested 1 crore in the said development. He had availed loan of Rs.2 crore from the Urban Bank. Amit was looking after the work of booking. After Corona pandemic, the informant inquired with Amit, but his answers raised doubt.

3. In June 2022, the informant asked for the account from Amit by meeting him personally. On collecting papers, the informant came to know that he had taken all authorities with him. He realized that forged signatures of informant was made on the documents. After verification of bank accounts, he realized that an amount of Rs.1,11,00,000/- is transferred to the account of Harishchandra Salokhe/accused No.2. Likewise an amount of Rs.23 lakh have been siphoned in the account of accused Ravindra Khande/accused No.4. On receipt of detailed business account, it was revealed that the company ought to have verified profit of Rs.10 crore. But, Amit showed loss of Rs.5 crore to the company. The informant, therefore, lodged complaint against bank applicants.

4. Applicants, therefore, filed application under Section 438 of Cr.P.C. before learned Sessions Judge, which came to be rejected by common order dated 9 February 2023. Aggrieved thereby, applicants have filed present anticipatory bail applications.

5. On perusal of the material on record, it appears that applicant in ABA No.505 of 2023 is accused No.1, applicant in ABA No.478 of 2023 is accused No.2 and applicant in ABA No.479 of 2023 is accused No.3.

6. The gist of the prosecution case is that, the accused No.1 by forging signatures of informant prepared forged resolution and by using such forged resolution prepared development agreement, supplementary power of attorney and sold flats, offices, shops and premises owned by the company. Without furnishing actual and correct accounts, Rs.15 crore was shown as expenses and it was shown that the company is in loss to the tune of Rs.5 crore.

7. Prima facie, it appears that the informant is holder of shares to the extent of 99.60% and accused No.1 holds 0.40% shares in the company.

8. According to applicants the amounts transferred to accused Nos.2 and 3 were by cheques signed by the informant and accused No.1. According to prosecution, accused no.1 received Rs.1,11,00,000/- and accused No.3 received Rs.23 lakh. According to informant, signed blank cheques were misused by accused No.1. However, fact remains that transfer of amount is based on signed cheques by the Directors of the company i.e. informant and accused No.1.

9. According to the informant, expenses of Rs.15 crore is exaggerated amount and accused No.1 siphoned of profit of company. Prima facie material on record along with the subsequent communications of the parties indicate that the informant had signed the resolution dated 15 June 2017 which is part of supplementary development agreement executed on 15 June 2017. Whether such resolution was signed by the informant or not needs to be adjudicated during trial. Whether the amount of Rs.15 crore shown as expenses by the accused No.1 is the matter of investigation by investigating agency and based on material produced by investigating officer, the Trial Court to adjudicate upon the allegations in the report. Prima facie, it appears that the amount in favour of accused Nos.2 and 3 were transferred by way of cheque signed by the informant, therefore, custodial interrogation of the applicants/accused No.2 and 3 is not required.

10. For the purpose of investigation of allegations in the report, custodial interrogation of the applicants is not necessary. The alleged offence is documentary in nature. Therefore, applicants have made out a case for relief under Section 438 of Cr.P.C. Hence, following order:

a) In the event of arrest of applicants in connection with C.R. No.27 of 20223 registered with Shahuwadi police station for offences punishable under Sections 406, 420, 467, 468, 471, 474 r/w 34 of IPC, they be released on bail on furnishing P.R. bond of Rs.1,00,000/- each, along with one or two sureties in the like amount.

b) They shall remain present before the concerned police station on 12th, 14th and 17th July, 2023 between 11:00 am to 2:00 pm thereafter, as and when called by the investigating officer.

c) They shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

d) They shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

e) They shall, at the time of execution of the bond, furnish their addresses and mobile numbers to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

f) The applicant in ABA No.505 of 2023 (accused No.1) shall not leave India without permission of the Trial Court.

11. All anticipatory bail applications stand disposed of in above terms. No costs.

(AMIT BORKAR, J.)