

SA Pathan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.590 OF 2023

Shyam Ashok Nikam

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Rupesh Bobade, for the Applicant.

Mr. Amit A. Palkar, APP for the State-Respondent.

Mr. Ranjeet & Mohite, ASI, Kondhwa police station.

CORAM : AMIT BORKAR, J.

DATED : JULY 6, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.1197 of 2022 registered with Kondhwa police station for the offences punishable under Sections 406, 409 and 420 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant 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, one Director of M/s. Rodadway Solution India Infra Limited Company has filed a report alleging that the applicant was employee of the said company as project manager, was responsible for construction of road. On 30 November 2021, he left the company without giving any resignation. Thereafter, it revealed that the applicant had misappropriated amount of diesel, bolder, bitumen, cement, admixture, aggregate stone, iron and panel replacement. The total amount of misappropriated is Rs.9,08,06,355/-.

3. The applicant filed application under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 7 February 2023. Aggrieved thereby, the applicant has filed the present anticipatory bail application.

4. On perusal of the report, it appears that the nature of allegations are in respect of excess use of material. Whether the required amount of material was used for construction of road is the matter of investigation and for that purpose custodial interrogation of the applicant is not necessary as entire material for construction of road would be available with the informant. It is not a case where the amount was utilized for different purpose, but it is the case of prosecution that excess material was used. Hence, the applicant has made out prima facie case. Custodial interrogation of the applicant is not necessary. Hence, following order:

a) In the event of arrest in connection with C.R. No.1197 of 2022 registered with Kondhwa police station for the offences punishable under Sections 406, 409 and 420 of IPC, the applicant be released on bail on furnishing PR. bond of Rs.50,000/-, along with one or two sureties in the like amount.

b) The applicant shall remain present before the concerned police station on 10th, 12th and 14th July, 2023 between 11:00 am to 2:00 pm thereafter, as and when called by the investigating officer.

c) The applicant 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) The applicant 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) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.

5. The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)