

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

ANTICIPATORY BAIL APPLICATION NO. NO. 1066 OF 2023

Santosh @ Nana Ramesh Kushare ...Applicant
Versus
The State Of Maharashtra And Ors ...Respondents

Mr. Ganesh Patil, Advocate for the Applicant.

Mrs. Ashwini A. Takalkar, APP for the Respondent – State.

P.N. 1758, Mr. D. D. Kharpade, Satpur Police Station, Nashik
Present.

ETHAPE
DNYANESHWAR
ASHOK
Digitally signed
by ETHAPE
DNYANESHWAR
ASHOK
Date: 2023.08.28
10:40:14 +0530

CORAM : N. J. JAMADAR, J.
DATE : 22nd AUGUST, 2023.

PC.:

1. Heard the learned Counsel for the applicant and the learned APP for State.

2. This is an application for pre-arrest bail in connection with C.R. No. 58 of 2023 registered with Satpur Police Station, Nashik for the offence punishable under Section 381 read with 34 of the Indian Penal Code, 1860 (“The Penal Code”).

3. The applicant and co-accused Nos.1 to 3 are the employees of MNE Components India Private Limited. The first informant is the Director of MNE Components India Pvt. Ltd. The first informant lodged a report with the allegations that

the co-accused Nos. 1 to 3 had committed theft of 1599 KG copper plates from the premises of the aforesaid company.

4. During the course of investigation, it transpired that the applicant, who is also an employee of the aforesaid company was also a privy to the crime. Sachin @ Krushna Manohar Nade, co-accused No.3 gave a disclosure statement on 15th March 2023 and roped in the applicant as an accomplice.

5. The learned Counsel for the applicant submits that there is no material to connect the applicant with the crime.

6. In opposition, the learned APP submits that in the statement of the co-accused, specific role has been attributed to the applicant. It is, therefore, necessary to have custodial interrogation of the applicant.

7. The only material which is pressed into service to establish the nexus of the applicant with the crime prima facie appears to be the memorandum of disclosure statement made by the co-accused. It is trite that such memorandum of disclosure statement does not constitute a substantive piece of evidence qua non-maker co-accused. Apart from the said statement, it does not seem that there is any material to connect the applicant. Thus, a prima facie case is made out to

exercise the discretion in favour of the applicant. Hence, following order.

ORDER

(i) Anticipatory Bail Application No. 1066 OF 2023 is allowed;

(ii) In the event of arrest of the applicant in connection with C.R. No. 58 of 2023 registered with Satpur Police Station, Nashik, the applicant be released on bail on furnishing a P. R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount;

(iii) The applicant shall co-operate with the Investigation and attend Satpur Police Station on every alternate Monday from 10:00 am to 12:00 noon for a period of two months and thereafter as and when directed by the Investigating Officer.

(iv) The applicant shall not tamper with the prosecution evidence and give threat or inducement to the prosecution witnesses.

(v) The applicant shall also furnish his permanent address and contact details to the Investigating Officer.

(vi) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail.

(vii) Application stands disposed of.

(N. J. JAMADAR, J.)