AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1443 OF 2023

Aman Ghanshyam Ojha & Anr. … Applicants
V/s.
The State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.2025 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.1443 OF 2023

Raj Digambar Deshpande … Applicant
In the matter between
Aman Ghanshyam Ojha & Anr. … Applicants
V/s.
The State of Maharashtra … Respondent

Mr. V.K. Dubey with Ms. Neha Bhavsar and Dania Verma i/b V.K. Dubey Associates for the applicants in ABA.

Mr. Vikram Chavan with Ms. Shraddha S. Kadam i/by C.K. Legal for the applicant in IA.

Mr. Pandurang H. Gaikwad, APP for the respondent/State.

Mr. Ashish Ramesh Kavthekar, API, Crime Branch Unit-1, Pune City, is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 9, 2023

P.C.:

1. Apprehending arrest in connection with FIR No.0053 of 2023 registered with Faraskhana Police Station, Pune for offence punishable under Sections 420, 467, 468, 471, 408 read with Section 34 of the Indian Penal Code, 1860, the applicant is seeking pre-arrest bail.

2. One Raj Digambar Deshpande working as Cashier in the shop of Ranka Jewellers situated in Pune has filed a report on 8 February 2023 in relation to transaction in respect of cheque No.0014366 dated 7 February 2023, it was revealed that no such transaction took place and the cheque book was missing from the shop. According to him, applicant no.1 was working as Accountant suddenly left the job in March 2022 without informing the owner of the shop. Thereafter, on scrutiny it was revealed that from the year 2019 till 2022 in all 22 cheques were issued to six different persons for total amount of Rs.1,06,35,720/-.

3. According to prosecution, applicant no.1 forged signatures of Anil Ranka and prepared invoices in the names of unknown persons and deposited the cheques in their account and misappropriated the amounts.

4. The applicant, therefore, filed application under Section 438 of the Criminal Procedure Code, 1973 before the learned Sessions Judge which has been rejected by order dated 28 April 2023. Aggrieved thereby, the applicants have filed present anticipatory bail application.

5. Learned advocate for the applicant submits that the applicants had supplied 3 kg. of gold to the owner of the shop and the amount alleged to be part of misappropriation is paid towards legal dues of the applicant no.1 for supply of 3 kg. of gold.

According to her, applicant no.2 has played no role in the transaction. Only role attributed to the applicant no.2 is that he introduced applicant no.1 to the owner. According to her, it is improbable that the transaction spread out for three years was undetected by the owner and, therefore, the applicants have been falsely implicated. She submitted that criminal complaint was filed against the owner of the shop and, therefore, the prosecution at his instance is not credible.

6. Per contra, learned APP invited my attention to the case diary and statements of six persons in whose account 22 cheques were deposited. He submitted a chart giving details of 22 cheques and the names of persons and various amounts deposited in their account. According to him, trail of money shows that the money was routed through these six persons to both the applicants, including son of applicant no.2 and, therefore, custodial interrogation of the applicants is necessary.

7. Learned advocate for the informant supported the contention of the learned APP.

8. Having perused the case diary, and in particular statements of six persons in whose accounts 22 cheques were deposited, it prima facie appears that various amounts were deposited in the accounts of these six persons. According to these six persons, they are unaware of the transaction and also unaware of the reason why the cheques were deposited in their account. According to them, they allowed such deposit at the instance of son of applicant no.2.

9. On consideration of material on record, it prima facie appears that the applicants are ultimate beneficiaries of the alleged misappropriated amounts. The transaction is spread over for a period of three years and, therefore, custodial interrogation of the applicants is necessary to investigate into the preparedness, commission and aftermath of the offence. Therefore, there is no merit in the application.

10. The anticipatory bail application, therefore, stands dismissed. No costs.

11. In view of dismissal of the anticipatory bail application, nothing remains to be adjudicated in the interim application and the same stands disposed of accordingly.

(AMIT BORKAR, J.)