

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2011 OF 2023

Vipul Rasiklal Hakani ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Ashley Cusher, for the Applicant
Ms. Ashwini Takalkar, APP, for the Respondent/State.
Mr. Ganesh Kekan, API, Naigaon police station present.

CORAM : N. J. JAMADAR, J.

DATE : AUGUST 29, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with C.R. No. 34 of 2023 registered with Naigaon police station for the offences punishable under sections 409 and 420 read with 34 of Indian Penal Code, 1860.
3. The first informant deals in the business of commission agency in wholesale grains market under the name and style of "P. Enterprises." Jignesh @ Jay @ Jagga Shah, accused No. 1 had approached the first informant seeking delivery of various grains and pulses. Pursuant to the representation made by accused No. 1, the first informant procured the grains and pulses from various wholesalers and arranged delivery at a godown at Common Road,

Naigaon, District Palghar. An aggregate amount of Rs. 42,31,500/- was due and payable against the said delivery. When the first informant contacted the accused No. 1 Jignesh on the next day of delivery, the later initially gave evasive replies and subsequently switched off his phone. The first informant and the wholesalers who had sold and delivered the commodities visited the place of delivery and found that the godown was shut. Thus, the first informant initially lodged first information report for the offences punishable under section 409 and 420 read with 34 of Indian Penal Code.

4. Jignesh, accused No. 1 came to be apprehended. During the course of investigation, it transpired that the applicant was a co-conspirator and had played an active role in deceiving the first informant and the wholesalers.

5. Apprehending arrest the applicant approached the learned Additional Sessions Judge, Vasai. As the learned Additional Sessions Judge declined to exercise the discretion, the applicant has approached this Court.

6. I have heard Mr. Ashley Cusher, learned counsel for the applicant and Ms. Ashwini Takalkar, learned APP, for the State.

7. The learned counsel submitted that the entire amount, of which the wholesalers were allegedly defrauded, has been credited to the account operated by accused No. 1. No part of the said

amount has been credited or paid to the applicant. According to the learned counsel, there is no material to connect the applicant with the crime. Thus, the applicant deserves the exercise of discretion.

8. Learned APP, on the other hand, submitted that the applicant had, in fact, forged the documents to show a false GST number pertaining to the firm of Shah Pradipkumar Kanjibhai. The applicant had allegedly forged the signature of Shah Pradipkumar, who had already passed away, to operate the bank account in which the amount which the accused received, post sale of the grains to third party, came to be credited. The custodial interrogation of the applicant is, therefore, warranted to unearth the fraud.

9. I have perused the material on record. Prima facie it appears that initially representations were made by the co-accused. However, the investigation has progressively revealed prima facie involvement of the applicant in the alleged offences. In addition to the leads given by the co-accused as regards the alleged forgery of the GST bill and forgery of the cheques to withdraw the amount from the account of Pradipkumar Shah, the deceased uncle of accused No. 1, there is material to show that the applicant was a confederate in the alleged conspiracy. The wholesalers have stated that delivery of the commodity was made as per the instructions and at the place indicated by the applicant. In addition, there is

statement of one Vijay Rammurat Mishra who stated that the applicant and the co-accused had procured the godown on the pretext of hiring it by submitting identity documents of one Nayyar Siraj Zulfar. Tausif Dilawar Mulla also vouches for the fact that accused No. 1 and the applicant had approached him for seeking the possession of the godown on the pretext that the agreement would be executed in due course. The statements of the purchasers of the commodities from the co-accused and the applicant also prima facie implicate the applicant as the person who had approached them to sale the said commodities.

10. The situation which thus obtains is that there is prima facie material to show that the applicant had allegedly forged the GST bill which stood in the name of Pradipkumar Shah. The amount was got credited to the account of said person, who had already passed away, and the applicant had allegedly also forged the signatures of the said account holder to withdraw the amount from the said account. In addition, there is material to show that the applicant was instrumental in allegedly hiring the godown, instructing the drivers to deliver the commodities at the godown and, thereafter, approaching and selling the said commodity to the subsequent purchasers.

11. In the backdrop of the aforesaid nature of the accusations and

the material which has emerged during the course of investigation, the custodial interrogation of the applicant seems indispensable to facilitate complete and effective investigation, including on the aspect of alleged forgery of documents for the purpose of cheating.

12. Resultantly, I am not persuaded to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] The application stands rejected.
- 2] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)