

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION (ABA) NO.459 OF 2023
Amar s/o Prabhunarayan Singh Vs. State of Maharashtra

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri V.S. Mishra, Advocate for applicant.
Shri M.J. Khan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JULY 31, 2023.

This application is for grant of anticipatory bail under Section 438 of the Code of Criminal Procedure in connection with Crime No.308/2023 registered with Police Station, Tiroda, District Gondia for the offences punishable under Sections 403, 420, 465, 468, 471 and 472 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of the police as the informant, who is President of the Pandav Cooperative Vipanani and Bhatgiri, Navezari, has lodged the report on an allegation that the said cooperative institution has an active bank account at the Gondia District Central Cooperative Bank, Branch Navezari. The bank has also provided cheque to the society and all the financial transactions are done through that cheque book under his surveillance. On 06.05.2023, the manager of the said society Shri Namdeo Meshram, who maintained the cash book of the cooperative society informed the President/informant that the transaction of ₹3,60,000/- has been recorded on 12.04.2023 through the said bank, for which he has no knowledge. Thereafter, the enquiry was conducted and it

revealed that one Waze has misappropriated the said amount. On the basis of said report, the police have registered the crime against the present applicant. During the investigation, it was revealed to the investigating agency that the present applicant is also involved in the said crime as he has prepared the seal of the institution i.e. Pandav Cooperative Vipanani and Bhatgirni, Navezari, and used the said seal on the said cheque to withdraw the amount and the applicant is one of the beneficiaries of the said amount.

3. As per the contention of the applicant merely on the basis of the statement of co-accused he is implicated in the present crime. Infact, he is not the beneficiary of any of the amount, which is misappropriated. His custodial interrogation is not required. He will abide by the conditions. As far as the preparation of the seal is concerned, there is no material to connect him with the said allegation and therefore he be released on bail.

4. Learned APP strongly opposed the application on the ground that it revealed during the investigation that the present applicant in collusion with account holder Dipak Waze has fabricated the document by way of affixing a rubber seal and by way of forging the signature of the President of the said institution and misused the lost cheque which was already having the signature of the Manager of the said bank and amount was withdrawn. Thus, there is a prima facie material against the present applicant, his custodial interrogation is required for identification purposes as well as for interrogation regarding the preparation of the seal.

5. Heard learned counsel for the applicant and learned APP for the State. Perused the investigation papers. After considering the allegation on the basis of FIR as well as various statements, it reveals that the present applicant has played a vital role in forging the seal of the said institution as well as he is one of the beneficiaries of the amount withdrawn. The investigating officer has recorded the statements to that effect to show the role of the present applicant in the alleged offence. As far as custodial interrogation is concerned, now it is settled that merely because custodial is not required, the applicant is not entitled for anticipatory bail. Considering the allegation against the present applicant that he has prepared the forged seal of the institution and used the said seal for withdrawing the amount. The statements of the witnesses show that the present applicant has played a vital role in forging the document as well as withdrawing the amount and he is the beneficiary of the said amount. Thus, a prima facie case is made out against the present applicant. Admittedly, his custodial interrogation is required to ascertain from which place he has prepared the seal, and his identification from the seal makers is also required. In view of that, the application deserves to be rejected. Accordingly, the criminal application is rejected.

JUDGE

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