2024:BHC-AUG:6099

IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 228 OF 2024

Sanjay S/o Bhanwarlal Mandhana … Applicant

VERSUS

The State Of Maharashtra
and another … Respondents

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Mr. R.S. Deshmukh, Senior Advocate a/w Ms. Yugandhara Namde, Advocate i/b Mr. A.N. Sikchi, Advocate for Applicant
Mr. A.R. Kale, APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th MARCH, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 0015 of 2024 registered with City Chowk Police Station, District Aurangabad for offences punishable under sections 406, 420, 120-B read with section 34 of the Indian Penal Code

2. FIR is lodged by Sunil Laxman Somwanshi alleging that in the year 2009, he was introduced with Bhushan Pundlik Patil by his friend Ajay Dalvi. In December 2017, Bhushan Patil made request to informant for investing capital for due compliance of order received by him. Informant thereby informed Bhushan Patil that he can make available his 16 shops for raising money. Bhushan Patil informed that in that situation, he would transfer his shares worth Rs.2,30,56,000/- from Nirman Gold Alloys Pvt. Ltd., in favour of informant and

would appoint informant as Director thereof. Bhushan Patil informed that he would transfer the shares within 20 months. Informant has firm named M/s. Sunil Somwanshi and Company, Jadhavwadi, Chhatrapati Sambhajinagar. He has a project of shops at Sunny Center. He executed a registered sale deed regarding 16 shops in favour of Bhushan Patil on 28.06.2017. Thereafter, in May-2018, said 16 shops were mortgaged with Abhyudaya Co-operative Bank and Nirman Gold Alloys Pvt. Ltd., had obtained loan of Rs.30,00,000/- and Rs.5,00,00,000/-. For both loans, informant was guarantor. There was no condition of restructuring of loan and same was to be repaid within 36 months and 8 months respectively. Despite such backdrop, Bhushan Patil did not transfer shares within agreed period of 20 months. Similarly, as agreed in sale deed, in default of transfer of shares, he had re-transferred shops in favour of informant, but he did not do so. Both loan accounts became NPA. Thereafter, Abhyudaya Co-operative Bank started recovery proceeding against informant.

It is further alleged that loan amount of Rs.30,00,000/- and further loan amount of Rs.5,00,00,000/- granted by Abhyudaya Co-operative Bank was misused and amount of Rs.40,00,000/- and Rs.6,14,43,917/- i.e. total amount of Rs.14,81,82,607/- were transferred to other accounts belonging to Shekhar Enterprises, Nirman Gold Plastech Pvt. Ltd., Solitaire Industries, LLP of which applicant was partner, Tuljai Industiral Product Pvt. Ltd., Aurangabad Foods Industries, by Nirman Godl Alloys Pvt. Ltd. In NCLT, the transactions were incorrectly disclosed on the basis of incomplete documents with regard to Bhushan Khot and Company. Thus, according to informant, after transferring an amount of Rs.14,81,82,607/-, raw material of Nirman Gold Alloys Pvt. Ltd. was sold in black market and amount raised therefrom was not deposited with Abhyudaya Bank. Thus, there was misappropriation of huge amount. Allegedly, shops of informant were brought under liquidation in NCLT. All accused persons made a conspiracy and got huge amount transferred to their accounts and thereby committed cheating and misappropriation of Rs.5,30,00,000/-.

3. Heard learned senior advocate for applicant and learned APP for respondent-State. Perused the investigation papers.

4. It is the case of applicant that he was the Director of Nirman Gold Alloys Pvt. Ltd., which availed loan of Rs.30,00,000/- from Abhyudaya Co-operative Bank on

11.04.2019. Applicant ceased to be a Director of Nirman Gold Pvt. Ltd. with effect from 25.12.2018. Thereafter, on 11.04.2019, Nirman Gold Pvt. Ltd. has availed a loan of Rs.5,17,08,705/- from Abhyudaya Bank. According to informant, while obtaining first loan, his 20 shops were mortgaged with the Bank by way of security. It is claimed by applicant that after availing second loan, first loan was cleared.

5. Admittedly, at the time of availing of second loan, applicant was not a Director of Nirman Gold Pvt. Ltd. Applicant was granted interim protection and he has co-operated in the investigation. Since, nothing is to be recovered from applicant, his pre-trial custodial detention is not necessary.

6. Application is therefore allowed by confirming interim protection granted to applicant by order dated 13.02.2024.

7. Till filing of charge-sheet, applicant shall attend the concerned police station as and when called by the investigating officer and co-operate in the investigation. Applicant shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE