IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 549 OF 2024

Manoj Dilip Arak
VERSUS
The State Of Maharashtra

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- Mr. S. S. Naik, Advocate for the Applicant
- Mr. M. K. Goyenka, APP for the Respondent/State

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CORAM : R.M. JOSHI, J
DATE : OCTOBER 09, 2024

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 20/2024 registered with MIDC CIDCO Police Station, Dist. Aurangabad for the offences punishable under Sections 406, 408, 420 read with Section 34 of the Indian Penal Code.

2. FIR came to be lodged on 11.01.2024 in respect of crime committed between 03.10.2022 to 28.02.2023. There is allegation against present Applicant that he is the Supervisor and incharge of transportation of the goods. It is alleged that goods in excess of delivery to the customers were send outside the establishment for its sale in market and applicant is responsible for

the same. It is alleged that total goods worth Rs. 15,97,803/- were misappropriated.

3. Learned Counsel for the Applicant submits that the Applicant has resigned from the service on 02.11.2022 and, therefore, he is being falsely sought to be implicated in this crime. He has drawn attention of the Court to the contents of the application, more particularly, paragraph 5 wherein it is specifically stated that job of the Applicant was to prepare list of goods as per invoice and segregate the goods for delivery and that he had no responsibility to load or deliver the goods to the customers. He also stated that there is a CCTV coverage of the area wherein the goods delivery vehicles are loaded and hence, it was possible for investigating agency to verify involvement of the Applicant in crime, if any.

4. Learned APP has opposed the application by contending that huge amount has been misappropriated. He has drawn attention of the Court to the statement of Charansing who has stated that at the instance of the present Applicant he had taken goods out of the factory

and money received after selling of the said additional goods was paid to the Applicant.

5. When there is a specific contention of the Applicant that his job is to segregate the goods as per the invoice and prepare list thereof, it was necessary for the investigating officer to ascertain the said fact. Similarly, as it is stated that the said area is covered by the CCTV, the investigating officer was expected to find out as to whether any CCTV is available and any footage is available of the incident. Perusal of the investigation papers shows that the investigation has been done as shabby as possible. Investigating officer has not considered the contentions sought to be raised by Applicant and no investigation has been done on those points. The statement of Charansing is recorded who states after about 2 years that at the instance of present Applicant he has sold additional goods in the market & Rs.35,000/- which was received was handed over to the Applicant. There is nothing on record to indicate that Applicant was having any authority to receive any money in respect of sale of goods. *Prima facie* evidence on

record is not sufficient to infer involvement of Applicant in this crime. This Court, therefore, finds substance in the contention of the Applicant that this could be a case of false implication of the Applicant as he has resigned from the service.

6. In view of above, application is allowed by confirming interim order dated 15.04.2024.

(R.M. JOSHI, J.)