2024:BHC-AUG:24335

IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD

16 ANTICIPATORY BAIL APPLICATION NO. 1633 OF 2024

MONALI KAILAS KHANAPURE .....Applicant

VERSUS

THE STATE OF MAHARASHTRA .....Respondent

….

Mr Shahrukh Shah, Advocate for Applicant
Mr P. K. Lakhotiya, A.P.P. for Respondent/State

CORAM : R. M. JOSHI, J.

DATE : 7th October, 2024

PER COURT :-

1. Banking business depends upon utmost trust. The investors deposit their money in the Bank with confidence that the money is in the safe hands. A question arises that, when it is found that the employees of the Bank themselves commit breach of trust of the customers and engaging in misappropriation of money belonging to them, whether they are their entitled for protection from arrest on the ground that culprit is a lady or that no criminal history behind him/her.

2. The applicant herein apprehends her arrest in connection with Crime No.0575/2024, registered with M.I.D.C., Latur Police Station, Dist. Latur, for the offences punishable under Sections 420, 409, 461, 465, 467, 471 and 120(B) of the Indian Penal Code.

3. The first informant Shri. Bhivaji Daulatrao Doiphode, Branch Manager, working in Buldhana Urban Cooperative Credit Society, Branch Barshi Road, Latur from 25/05/2023, lodged report claiming that misappropriation of the funds has been committed by the employees of the said Branch for the period from 01/04/2019 to 31/03/2023. It is alleged therein that the employees, in collusion with the then Branch Manager, have withdrawn the money from various accounts by making false signatures of the customers of the said Bank, and thereby loss is caused to the customers, as well as to the said Bank. It is further stated therein that, Buldhana Urban Cooperative Credit Society is the Multi-State Cooperative Society involved in the banking business. Present applicant is a Clerk working in the said Branch during the relevant period. It is alleged that present applicant and

the co-accused, by using their I.Ds. have effected the transactions in respect of 21 Bank Accounts. It is alleged that the Fixed Deposit of one of the customer, namely, Ravindra Dnyanoba Polawar was credited in his Account, however, thereafter, on the basis of false withdrawal slip and bogus signature of the said account holder, the said amount of Rs.20,76,000/- was transferred into different 21 bank accounts and from there withdrawal was effected. It is alleged that, this is the case of total misappropriation of Rs.66,83,697/- during the aforesaid period.

4. Learned counsel for applicant contends that applicant is a lady and working as a Clerk in the Bank. It is contention of learned counsel for the applicant that there is a delay of about seven months in lodging first information report, and as such, possibility of the implication of the applicant is not ruled out. It is further argued that, almost all the employees working in the said Branch are made accused, and it is improbable to accept that all of them are involved in crime. It is his submission that, as a Clerk, the applicant did not have any authority to pass any transaction. It is claimed that, owing to the number of transactions on a

particular date, there is possibility of some vouchers being missed by the applicant and comparison of the signatures has not been done properly. This, however, according to him, does not amount to any misappropriation. He submits that custodial interrogation of the applicant is not necessary. He cites clean past record of the applicant.

5. Learned APP and learned Advocate for informant opposed this and others applications filed by co-employees, on the ground that applicants herein cannot take shelter of the fact that the approving/passing authority is the Assistant Manager or the Manager. It is submitted that, it is the responsibility of Clerks to carry out basic verification of the withdrawal slips and to ascertain, as to whether the signatory of the same at least is the Account holder. It is submitted that there are specific complaints made by the customers with regard to unauthorized withdrawal of amounts from their accounts. A specific query is made to learned counsel for the informant, as to whether any complaints are received with regard to withdrawal of such amounts, he placed on

record before this Court, number of complaints lodged by the customers in this regard.

6. Learned APP has also drawn attention of this Court to the documents collected during the investigation, which according to him, *prima facie*, indicate that, on bogus signatures, which do not tally to the signatures of the customers, transfer of the amounts are done. It is submitted by learned APP that the investigating Officer yet to ascertain, as to where withdrawal money has gone, as said withdrawal is in cash. It is his submission that, for the purpose of recovery of misappropriated amounts and also to find out way of money misappropriated, custodial interrogation of the applicant is necessary.

7. As observed herein above, it is absolutely essential for all employees of the Bank to maintain utmost honesty and sincerity. Perusal of the record placed before this Court indicate that, there is blatant violation of the Rules for withdrawal of the money. There is substance in the contention of the prosecution that, on the face of it, the withdrawal slips indicate that the signatures made thereon do not belong to the customers/Account

holders concerned. Most shockingly, amount was transferred from Fixed Deposit from one of the customers into his account, and thereafter, the said amount was transferred to different 21 bank accounts. Further, from these 21 bank accounts, amounts are withdrawn and there is no trace thereof. It is thus, absolutely clear that, it is not possible for a single person to commit said crime, and as such, there is substance in the submission of the prosecution about this crime being committed by applicant in collusion with the co-accused. Number of applications filed by similarly placed employees are dismissed as withdrawn.

8. Though, the documents, on the basis of which, misappropriation has been done, are with the Bank, question arises, as to how the investigation is to be done with regard to the trace of amounts which are withdrawn in cash from those accounts. Therefore there is substance in the submissions of the learned APP that for the purpose of ascertaining, as to manner in which withdrawal of amounts are misappropriated and for recovery of said amounts, custodial interrogation of these

applicants is necessary. In any case, having regard to the serious nature of crime, this is not the case to grant pre-arrest bail.

9. As a result of the above discussion, this application stands dismissed.

(R. M. JOSHI)
Judge

sjk