



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

928 ANTICIPATORY BAIL APPLICATION NO. 1862 OF 2024

Nadeem Khan S/o Karim KhanApplicant

VERSUS

The State of Maharashtra & anotherRespondents

.....

Mr. A. M. Karad, Advocate for the Applicant.

Mr. S. B. Jadhav, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 4th DECEMBER, 2024.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0487/2024 registered with M.I.D.C. CIDCO Police Station, District Aurangabad for the offences punishable under Sections 420, 406 read with Section 34 of the Indian Penal Code.

2. First Information Report lodged by Ritesh Aswar indicates that he is distributor of products of Nestle company. For this purpose, he engaged present applicant and one Irfan as salesmen. They are working with him for about 10 years. It is the contention of the informant that both these persons received money

from the customers payable to the informant however, by not paying the same to him they have committed misappropriation.

3. Learned counsel for applicant submits that whatever amount was received by applicant from the customers is already paid back to the informant. To support his submissions, he placed certain documents on record indicating transfer of said amount to the informant. It is his submission that for the purpose of recovery of alleged misappropriated money, custodial interrogation of the applicant is not necessary.

4. Learned APP opposed the application by contending that there is evidence on record in the form of statements of customers which show that the present applicant had received money. Thus, it is his contention that the amount which has been received in cash is yet to be recovered from the present applicant and for that purpose his custodial interrogation is necessary.

5. In this case there are two accused. Application for anticipatory bail of both accused came to be rejected by learned Sessions Court for the reason that their custodial interrogation is

necessary for recovery of money which is misappropriated. As far as co-accused is concerned, there seems to be a compromise entered into between the informant and the said accused whereby the accused has agreed to pay misappropriated amount. Insofar as present applicant is concerned, there is specific allegation against him that he has received money from 17 different customers to the tune of Rs. 1,99,971/-. Perusal of investigation papers indicates that there are statements of witnesses indicating such payment. Though documents are placed on record indicating that some money was transferred into the account of the informant, the applicant is unable to show that the said amount pertains to the transaction as alleged in the First Information Report.

6. Merely because the police has not registered crime after its report on 19.04.2024 till 09.09.2024, the applicant would not get any benefit thereof. Similarly, enquiry conducted before registration of crime would not be treated as custodial interrogation. Having regard to the facts involved in this case, this Court finds no reason to accept the contentions of learned counsel for the applicant that this is not a case wherein custodial interrogation of the applicant is not called for.

7. Having regard to these reasons, application stands dismissed.

(R. M. JOSHI)
Judge

dyb