IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 894 of 2024

Ajitkumar Soni
Age : 45 Occupation-Medical
Equipments Supply & Event
Management, 83, Janakpuri,
2-Imliwala Phatak, Jaipur, Rajasthan .... Applicant.

Versus

The State of Maharashtra
(Solapur Rural Police Station) ... Respondent.

...

Mr Jitendra Tiwari a/w Ms Kunickaa Sadanand for the applicant.
Mr Arfan Sait, APP for respondent/State.
API Narayan Misal, EOW, Solapur Rural, is present in the Court.

Coram: R. N. Laddha, J.
Date: 22 April 2024.

P.C. :

In this application, the applicant has approached this Court seeking anticipatory bail in connection with an FIR bearing CR No.811 of 2021 registered at Akluj Police Station, Solapur, under Sections 420, 477-A, 467 and 409 read with 34 of the Indian Penal Code, and Section 3 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. The Economic Offences Wing in

Solapur is currently investigating the matter.

2. Mr Jitendra Tiwari, learned Counsel representing the applicant, submits that the offence was committed by six Bank employees, and the applicant played no role in it. The learned Counsel further argues that despite the FIR being registered, the applicant has not been made accused for approximately 26 months. Mr Tiwari contends that the accused has been unfairly made a scapegoat in this matter, and there is no evidence on record to suggest that the applicant ever communicated with the co-accused.

3. The learned Counsel submits that in response to the notice dated 6 October 2023, received from the Economic Offences Wing (EOW), Solapur, he attended the EOW office and submitted a written explanation regarding the alleged transactions. The applicant was involved in the trade of medical equipment and Oxygen Concentrators, which were in high demand during the COVID period. The co-accused, Muniraj Naidu, initially rented and later purchased 28 Oxygen Concentrators from the applicant, using the name of co-accused Nitin Ughade. However, the applicant had no direct dealings with Nitin Ughade and only supplied the

Oxygen Concentrators based on Muniraj Naidu's recommendation and instructions. The applicant's business transactions were conducted legally and exclusively through the Bank.

4. According to the learned Counsel, the EOW included the applicant's name in the FIR primarily because the applicant failed to respond to a notice dated 9 January 2024 and did not return an amount of Rs.22,00,000/-. The learned Counsel argues that the co-accused, Nitin Ughade, transferred the amount into the applicant's account based on instructions from Muniraj Naidu. This information is corroborated by the investigating officer's say filed before the trial Court on 4 December 2022. The received amount was related to legitimate business transactions and fully compliant with legal requirements. The tax invoices were issued, and the GST was duly paid by the applicant. Apart from this specific business transaction, which has proper documentation, there is no evidence to implicate the applicant under Section 34 of the Indian Penal Code. Notably, the other two individuals who allegedly deposited some amount in the applicant's account have not been made accused. The original complaint was against the Bank employees, and there are no prior criminal

records associated with the accused.

5. The learned Counsel for the applicant submits that the applicant is ready to deposit Rs.22,00,000/- to show his *bona fides* and is willing to cooperate with the ongoing investigation fully. Additionally, it has been brought to the Court's attention that one of the co-accused has already been granted bail. Furthermore, the investigation is nearing completion.

6. Mr Arfan Sait, the learned Additional Public Prosecutor, opposing the bail application, argued that the applicant had received an embezzled sum of Rs.22,00,000/-. The offence is of a serious nature, and the charge sheet has not yet been filed. Consequently, the bail application of the accused, Nitin Ughade, was denied by the Court.

7. This Court has given anxious consideration to the rival contentions and examined the record with reference to the applicable law.

8. It is not in dispute that the investigation is almost complete, and the documents related to the crime consist of bank records. Additionally, there is no dispute that the

applicant was involved in the trade of medical equipment and oxygen concentrators. Notably, one of the co-accused has already been granted bail by this Court. The applicant is ready to deposit Rs.22,00,000/- in the trial Court to show his *bona fides*. *Prima facie,* there is material to suggest that the applicant received the money through legitimate business transactions, as tax invoices were issued, and GST payments were made to the GST department. Furthermore, the transactions were conducted exclusively through the Bank.

9. Considering the details above, this Court is inclined to allow the present application. Hence, the following order :

ORDER

(i) In the event of the applicant's arrest in CR No.811 of 2021, registered at Akluj Police Station, Solapur and investigated by EOW, Solapur, he shall be released on bail upon furnishing a PR Bond of Rs.25,000/- with one or two solvent sureties in the like amount, subject to the condition that the applicant shall deposit an amount of Rs.22,00,000/- in the trial Court within two weeks from today. The trial Court, however, shall not allow the withdrawal of this amount until the conclusion of the trial.

(ii) The applicant shall not, himself or through any other person, indulge in any activity that would tamper with the evidence or influence the witnesses.

(iii) The applicant shall cooperate with the investigation and report to the investigating officer as and when directed and shall furnish his contact details to the investigating officer.

[R. N. Laddha, J.]