

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2281 OF 2024

Shakil Nabilal @ Nabisaheb Shaikh ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Ashish P. Agarkar i/b. Mr. Ramakant D. Patil for Applicant.
Ms. Megha S. Bajoria, APP for Respondent-State.
Mr. S. G. Gundale, Police Constable, Mandrup Police Station.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 11, 2024

P.C. :

. Heard Mr. Agarkar, learned counsel for the applicant and Ms.Bajoria, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0182 of 2024 dated 10.05.2024 registered with Mandrup Police Station, District - Solapur Rural, for offences under Sections 409, 420, 465, 468 and 471 of the Indian Penal Code, 1860 (IPC).

3. The informant, in the present case, is the Assistant Postal Superintendent and his statement revealed that enquiries pertaining to the post office, wherein the applicant was working as post master showed misappropriation of large amount. It was found that that amounts of account holders were misappropriated by the applicant. He was suspended and he is facing departmental enquiry. It is also a matter of record that the allegedly misappropriated amount of Rs.5.39 lakhs was deposited by the applicant.

4. The learned counsel for the applicant submits that the alleged misappropriated amount has been already deposited by the applicant.

The ATM cards allegedly misused are also recovered by the investigating authority. The applicant is already facing departmental enquiry and as on today, he is suspended and hence, there is no question of tampering with the relevant material. It is submitted that the applicant is ready to co-operate with the investigation, and therefore, the prayer may be granted.

5. On the other hand, the learned APP submits that the statement of the informant clearly makes out the ingredients of the alleged offences. One of the offences, which pertains to Section 409 of the IPC, provides for maximum sentence of imprisonment for life. It is submitted that the applicant has indeed deposited the entire amount of Rs.5.39 lakhs allegedly misappropriated in the present case and that the ATM cards have also been recovered.

6. The material on record clearly indicates that the applicant is facing investigation for serious offences, being the post master and in that sense responsible for the security of the amounts deposited by innocent account holders. The applicant appears to have indulged in activities that resulted in misappropriation of substantial amount. Nonetheless, it is a matter of record that the allegedly misappropriated amount was deposited by the applicant even before registration of the FIR. It is also a matter of record that the ATM cards allegedly misused by the applicant are also recovered during the course of investigation. The allegations pertain to forgery and fabrication of documents, thereby indicating that the investigation necessarily concerns documentary material, which would be available in the concerned branch of the post office. Since the applicant has been already suspended, there is no possibility of the applicant tampering with the documents lying in the custody of the post office. He is facing departmental enquiry and he is ready to co-operate with the investigation. Hence, this Court is inclined

to allow the present application.

7. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0182 of 2024 dated 10.05.2024 registered with Mandrup Police Station, District - Solapur Rural, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 13.09.2024 and thereafter as and when required by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not contact the informant in any manner during the pendency of the investigation;
- D. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

8. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

9. The application is disposed of.

(MANISH PITALE, J.)