IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2796 OF 2024

Aasaram Gopichand Bhil ...Applicant

Versus

The State of Maharashtra ...Respondent

***

- Mr. Sahil Choudhari i/b Mr. Amol Shivajirao Sawant, for Applicant.
- Ms. Rutuja a. Ambekar, APP for Respondent.

***

CORAM : MANISH PITALE, J.
DATE : 17th OCTOBER, 2024.

P. C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with First Information Report No.0208 of 2024, dated 05.07.2024, registered at Police Station Sangli Rural, District Sangli, for offences under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. The informant in the present case has alleged that the applicant is guilty of the aforesaid offences, for the reason that despite giving promise and entering into an agreement to provide workers for sugar factory in respect of which substantial amounts were taken from the informant, the applicant eventually failed to provide workers. It is claimed that having taken such large amounts of money in cash and also in his account, the applicant committed

the aforesaid offences.

4. The learned counsel for the applicant submits that in the present case, even according to the informant, from the year 2021 onwards, the applicant has been providing workers to the informant. The agreement referred to in the statement of the informant itself records that even in the year 2022-2023, the applicant had indeed provided workers to the informant.

5. It was submitted that therefore, there is an ongoing commercial relationship between the parties and, at worst, the allegation against the applicant is that in the year 2023-2024, in respect of which the aforesaid agreement was executed, the applicant failed to provide workmen as expected and corresponding to the amounts that were transferred by the informant. It is submitted that the allegations made in the FIR do not make out ingredients of the offence under Section 406 of the IPC or offence under Section 420 thereof. It is submitted that the applicant is ready to appear before the Investigating Officer and to cooperate with the investigation and in that light this Court may consider allowing the application.

6. On the other hand, the learned APP submits that the statement, leading to registration of the FIR as well as the contents of the aforesaid agreement, clearly show that when the said agreement was executed, the applicant was already required to pay huge sum of ₹ 3.66 Lakhs to the

informant. This was treated as an advance amount for the period of agreement i.e. 2023-2024. On top of it, further amounts were received by the applicant and yet workers were not provided, thereby indicating that the ingredients of the offences are clearly made out. If relief is granted at this stage itself, the investigation would be hampered.

7. This Court has considered the rival submissions in the light of the material available on record.

8. A perusal fo the statement, leading to registration of the FIR shows that even according to the informant, the applicant had provided workers for the years 2021-2022 and 2022-2023. In fact, the agreement referred to in the statement, leading to registration of the FIR, copy of which is annexed to the application, records that the applicant indeed provided workers for the year 2022-2023. Therefore, the applicant has made out *prima facie* case to indicate that there was a commercial interaction and relationship between the parties from the year 2021 onwards.

9. The contents of the agreement indicate that amount of ₹ 3.66 Lakhs was due from the applicant and it was treated as advance amount for the period 2023-2024. Further amount was transferred in favour of the applicant for him to provide workers, as he had done in the earlier years. It is to be noted that while the agreement recorded that an amount of ₹ 2 Lakhs was

transferred into the account of the applicant, in the FIR, the informant has claimed that cash amount of ₹ 2 Lakhs was handed over. Apart from this, it is to be noted that the real grievance of the informant appears to be the failure on the part of the applicant to provide workers as promised, despite having received substantial amounts in that regard.

10. There is no allegation that the amounts transferred to the applicant were utilized for some other purpose and therefore, there is substance in the contention raised on behalf of the applicant that *prima facie* ingredients of the offence under Section 406 of the IPC are not made out. As regards the ingredients of the offence under Section 420 of the IPC, it would be stretching things too far to reach a conclusion at this stage itself that when the applicant started interacting with the informant in the year 2021, he did so with the dishonest intention to eventually cheat the informant in the year 2023-2024.

11. *Prima facie,* the dispute between the parties appears to be of commercial / civil nature and colour of criminality is sought to be given, due to the grievance of the informant that despite payment of huge amounts, workers as expected were not provided by the applicant.

12. The applicant may have an explanation for the same but that would be a matter of an appropriate proceeding that may be initiated by the

informant. A case for granting anticipatory bail is made out, so long as the applicant is ready to cooperate with the investigation.

13. In view of the above, the application is partly allowed in the following terms :

(A) In the event the applicant is arrested, he shall be released on bail, in connection with FIR Nos.0208 of 2024, dated 05.07.2024, registered at Police Station Sangali Rural, District Sangali, on furnishing PR Bonds of ₹ 50,000/- with one or two sureties each in the like amount, to the satisfaction of the Trial Court.

(B) The applicant shall appear before the Investigating Officer on 19th October, 2024 and 21st October, 2024, between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.

(C) The applicant shall cooperate with the investigation, including producing all documents in his possession, as may be demanded by the Investigating Officer, which may also include his Bank Account Statements.

(D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

14. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail.

15. 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.

16. The application is disposed of.

(MANISH PITALE, J.)