**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.210 OF 2024**

Amit Digvijay Singh .... Applicant

versus

State of Maharashtra .... Respondent

…....

- Mr. Ashok M. Saraogi i/b. Vaibhav V. Ugle a/w Vikas Somawanshi a/w Roshan Chavan a/w Shubham Vasekar, Advocate for Applicant.
- Mr. Kuldeep S. Patil, Retainer Counsel for CBI/Respondent.
- Ms. Rajeshree V. Newton, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.**
**DATE : 04th MARCH, 2024**

**P.C. :**

1. The Applicant is seeking anticipatory bail in connection with RC No.0682017E0009/2017 dated 10/06/2017, registered with CBI, EOW Mumbai, under sections 420, 467, 471 of the Indian Penal Code.

2. Heard Mr. Ashok M. Saraogi, learned counsel for the Applicant, Mr. Kuldeep S. Patil, learned Counsel for CBI and Ms. Rajeshree V. Newton, learned APP for the State.

3. In this investigation, the initial charge-sheet is already filed. In that charge-sheet, the Applicant is not shown as an accused. However, the investigation is still going on u/s 173(8) of Cr.P.C. During further investigation, the Applicant's complicity is revealed. Therefore, the investigating agency wants to arrest the Applicant. Hence he has apprehension and therefore the present application is filed.

4. The investigating agency's case is reflected in the story mentioned in the charge-sheet, which is already filed, which in short is as follows:

On 10/06/2017, a complaint was lodged by Mukul Kumar, Deputy General Manager, IDBI Bank, Zonal Office, Mumbai, NPA Management Group, Bandra Kurla Complex, Mumbai, against M/s. MYNK 1906 Industries India Ltd. (hereinafter referred to as MYNK). The charge-sheet mentions the Applicant's wife's name i.e. Kavya Amit Singh as the accused No.2. It is the case that she conspired with the other accused and availed bank loan from IDBI Bank, Specialized Corporate

Banking Branch at BKC Mumbai, to the tune of Rs.4.21 Crores by submitting false and fabricated documents and supplier's details, thus, ultimately causing the wrongful loss to the tune of Rs.4.21 Crores.

5. MYNK was earlier established in 1985 under a different name. After that, through various changes in the management and shareholding, ultimately its name was changed to the present name on 30/09/2013. Kavya was owning substantial shares in that company. A current account in the name of MYNK was opened with IDBI Bank, BKC branch, on 11/04/2014. The Senior Finance Manager of MYNK Arti Bhatt applied for a loan of Rs.5 Crores. At that time, Kavya was the Managing Director. Vijay Bhagat and Purabi Jhaveri were the Directors and Navmeet Arora was the Director and Chief Finance Officer. All the Directors were the guarantors of the credit facilities availed by MYNK from IDBI Bank and also signatories to various documents in their bank transactions. While obtaining loan, a declaration and undertaking for creation of mortgage deed dated 12/05/2014 purportedly executed by Smt. Babli Amit

Singh was used, but the investigation revealed that it was a forged document resulting in faulty collateral security for the credit facility sanctioned. The IDBI Bank, BKC branch sanctioned loan of Rs.5 Crores as term loan and Rs.1 Crore as working capital loan on 22/04/2014. Based on the above mentioned forged power of attorney, a sale deed executed on 22/08/2013 in respect of residential flat No.C-3, Durgesh Residency, $2^{nd}$ Floor, Anandwali, Nashik, was used. The investigation revealed that one Ms. Aditi Jagtap, a Graphic Designer had prepared fake proforma invoice, letterhead, summary of the machines, terms and conditions of sale etc. in the name of M/s. Pedrini Industries Singapore Pte. Ltd. (hereinafter referred to as Pedrini Singapore). During investigation it was revealed that there was another genuine company by the name M/s. Pedrini S.p.A ad unico socio, Italy. It was a genuine company which had not supplied any machinery to the accused company MYNK. The original company in Italy has never had anything to do with Pedrini Singapore. The incorporation of Pedrini Singapore itself was fraudulent.

6. Kavya also floated another company by name WWL Limited. The loan sanctioned to MYNK was disbursed on 21/05/2014 to the accused company.

7. It is alleged that the amount disbursed by IDBI bank was not used for actually purchasing the machinery, but it was transferred to personal accounts and siphoned off. There are other allegations that LCs were opened in the name of Pedrini Singapore and one more company by name Xiamen Bestlink Factory Co. Ltd. They were also misused. Purported proforma invoice dated 01/05/2014 submitted to IDBI bank was not actually issued by Pedrini Singapore. That company was not making the concerned machines. When the bank officers of IDBI bank visited the plot at Wada, Thane on 23/01/2015, there was only an open plot. There was no construction, no plant, no machinery. The valuation regarding the residential flat at Anandwali, Nashik was grossly inflated based on deliberate wrong valuation report. On this count, IDBI bank was defrauded to the amount they had disbursed as loan.

8. The investigation was carried further and the role of the Applicant was revealed. Briefly, the allegations against the Applicant are, that, he was controlling the affairs of MYNK, he was instrumental in incorporating the company Pedrini Singapore. He was instrumental in opening the account in HDFC bank in the name of M/s Meuse Hotels & Hospitality Pvt. Ltd., India. The amount from Pedrini Singapore was deposited in this company's account by using Bank of America as the foreign exchange facilitator bank. The United Overseas Bank Ltd. had an account of Pedrini Singapore. Thus, this amount was routed through different bank accounts and ultimately was siphoned off. There are statements of witnesses mentioning the Applicant's role.

9. Learned counsel for the Applicant made the following submissions :

The Applicant was never a Director of MYNK. It was controlled by his wife Kavya. There is a dispute between the Applicant and his wife. She had left him on 07/05/2019. He had sent her a notice dated 05/01/2020, suggesting divorce by mutual consent. She had sent a reply to that notice. They are not on good terms and therefore the wife is using this investigation to implicate the present Applicant; thereby pressurizing him into an acceptable settlement in her favour. The Applicant was called by the investigating agency through the notice u/s 160 of Cr.P.C. The Applicant is willing to cooperate with the investigation. Mr. Saraogi submitted that there are two different companies by name M/s Meuse Hotels & Hospitality Pvt. Ltd. The other company is M/s Meuse Hotels And Hospitality Pvt. Ltd. The use of symbol '&' against the work 'AND' is significant in these two names. The Applicant was never a Director of the former company. He was the Director of the latter company. But that too was between the period 2015 to 2017. Mr. Saraogi relied on the Ex.'J' annexed to the memo of this application, wherein these two companies are separately mentioned. The said extract is about the information regarding the companies of which Kavya was a Director or Additional Director. In that list, both these companies are shown as different companies altogether. He therefore submitted that the investigating agency is confusing between these two companies and are wrongly accusing the

Applicant of having siphoned off the amount by using one of these companies.

10. Mr. Saraogi referred to the two orders passed in anticipatory bail application preferred by Kavya. These orders were passed in Anticipatory Bail Application No.1156 of 2017. The first order was dated 07/07/2017, granting her interim protection and the second order was dated 21/07/2017 granting her relief of anticipatory bail. Both these orders were passed by a co-ordinate bench of this Court. There is a reference to the fact that the machinery was given to Bombay Port Trust and since the bank had not made payment, the machinery was sold by Bombay Port Trust. There was no other claimant in respect of those machinery. Kavya's company had filed a suit against Bombay Port Trust. Based on these submissions, ad-interim relief was granted and it was confirmed vide the order dated 21/07/2017. At that time, it was submitted on behalf of the investigating agency that Kavya's anticipatory bail could be disposed of by directing her to attend the Investigating Officer as and when called and to cooperate with the investigation by

furnishing all the requisite documents. Mr. Saraogi relied on these two orders to contend that since the main accused Kavya was granted anticipatory bail, it is an important consideration for the purpose of granting anticipatory bail to the present Applicant. He submitted that Kavya's role is prominent in the charge-sheet. In the first charge-sheet, the Applicant's name was not even mentioned as the accused. Therefore, the same reasons should apply to the present Applicant for consideration of anticipatory bail in his favour.

11. Learned Special P.P. Mr. Patil for CBI opposed this application. He relied on the affidavit-in-reply filed on their behalf. He also produced the account opening form of M/s Meuse Hotels & Hospitality Pvt. Ltd. with HDFC bank, Vasant Vihar branch, Thane. A copy of the said account opening form and the extract of the concerned entry is taken on record and marked 'X-collectively' for identification. This is an important document in the investigation, which is still going on. He further submitted that the entire events which had taken place simultaneously show a definite design in committing this office.

At every stage, the Applicant is involved; and, in fact, he is the mastermind behind the entire offence. Mr. Patil relied on the various statements of important witnesses to support his contention.

12. I have considered these submissions. It is mentioned in the affidavit and it is revealed in the further investigation that the amount of loan which was sanctioned by IDBI bank, was sent to the account of Pedrini Singapore in May 2014 maintained with United Overseas Bank, Singapore. From there, it was transferred to M/s Meuse Hotels & Hospitality Pvt. Ltd. India, maintained with HDFC Bank. The amount was of Rs.2.62 Crores. For that purpose, the procedure of Swift message was used and amount from Overseas bank of Pedrini Singapore's account was transferred and credited to M/s Meuse Hotels & Hospitality Pvt. Ltd. at Vasant Vihar branch, Thane and it was mentioned that the said remittance was for purchase of equity shares. Significantly, the affidavit further mentions that the present Applicant was one of the Directors of M/s Meuse Hotels

& Hospitality Pvt. Ltd., at the time of commission of the offence. Ultimately, this is how the amount was siphoned off.

13. In this connection, statements of some of the witnesses are important. One Ashish Mishra has stated that he was a Director of M/s Meuse Hotels & Hospitality Pvt. Ltd. The Applicant had appointed him as a Director. He has confirmed that the account opening form of the said company in HDFC Bank, Vasant Vihar Branch was signed by himself and the present Applicant. The amount of Rs.2,62,16,000/- was received in that account on 23/05/2014 from Pedrini Singapore and then it was transferred to M/s Meuse Hotels & Hospitality Pvt. Ltd. in the account maintained with Citibank. He has clearly stated that to his knowledge the Applicant was the owner of the MYNK and the Applicant was available at the office of the said company.

14. The witness Arun Sharma has stated that Pedrini Singapore was incorporated in November 2013 on the instructions of the present Applicant. This witness had helped the Applicant in incorporating Pedrini Singapore. He further

stated that the said company had opened an account with United Overseas Bank on 09/05/2014. The Applicant was also a signatory to the said account and he had signed the account opening form. He has stated that in May 2014, Pedrini Singapore had received the concerned amount in the account maintained with United Overseas Bank, Singapore and on the same day on the instructions of the Applicant, the amount was transferred to M/s Meuse Hotels & Hospitality Pvt. Ltd. A week later, certain payment was made to WWL Ltd., Hong Kong. The said company WWL Ltd. was belonging to Kavya. Arun Sharma's son Ishan was the Secretary of Pedrini Singapore. He has stated that the said company was struck off in 2021 for not filing the annual return.

15. The witness Bhaven Vashi has stated about the remittance of the said amount from Pedrini Singapore's account maintained with the Overseas Bank Singapore to HDFC, Vasant Vihar branch, using swift message sent by Bank of America, New York. It was mentioned that the amount was remitted for purchase of equity shares.

16. The witness Sanjay Bhadke has stated about the forged power of attorney used in the document of agreement for sale in respect of flat No.C-3, Durgesh Residency, 2$^{nd}$ Floor, Anandwali, Nashik. He has stated that he was an employee of the Applicant and on his instructions he had to execute that forged document.

17. The statement of witness Purabi Jhaveri is even more incriminating. She has described as to how the Applicant had made her a Director of MYNK. She was not aware of the loan taken from IDBI Bank. But she received notice about this, as she was the Director/Guarantor of this term loan. She was made to sign the relevant documents by the present Applicant, which were misused by him.

18. The copies of these statements are taken on record and marked 'Y-collectively' for identification.

19. Thus, the investigation carried out so far reveals the clear important role played by the Applicant in the entire transaction. It is more than obvious that the Applicant is the

mastermind behind the entire scheme and behind routing of the amount received from IDBI bank. In this connection, his custodial interrogation is absolutely necessary. He cannot be protected u/s 438 of Cr.P.C. There is sufficient documentary evidence as well as statements of the witnesses which specify his role in committing these offences. Therefore, though his wife Kavya is granted anticipatory bail, the same reasons are not applicable to his case. I am also not impressed with the submissions that because of the matrimonial dispute between the Applicant and Kavya, the CBI is used by Kavya to pressurize the Applicant. There is sufficient independent material against the Applicant necessitating his custodial interrogation. In view of this discussion, no relief can be granted to the Applicant. The application is rejected.

**(SARANG V. KOTWAL, J.)**