IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.443 OF 2024

Vikas Ramesh Chandra Srivastava .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Subir Sarkar, Advocate for the Applicant.
Mr. Mayur S. Sonavane, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 15th FEBRUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.68/2023 registered at Koregaon Park Police Station, Pune City on 3.5.2023 under sections 408, 420 read with 34 of IPC.

2. Heard Mr. Subir Sarkar, learned counsel for the Applicant and Mr. Mayur Sonavane, learned APP for the Respondent-State.

3. The FIR is lodged by one Sudarshan Kumar Patil, who was working as Manager with Ghodawat Retail L.LP.. According to him, the present Applicant and other two accused Dnyanmurti Jha and Rajeshkumar Jha have caused misappropriation of the company's goods and money. The Applicant was working as the Business Head since 9.8.2021. All the three above named accused represented that they would get a good business for the company through Star Local Market Shoppes. Accordingly the informant's company was conducting business in 16 shoppes. They were completely under the control of these three accused. They were responsible for making appointment of the employees, keeping accounts, supervising the work done by the employees, verifying the stock, helping the customers and depositing the money in the firm's account. There were some instances of misappropriation in Kolhapur District. Therefore, the informant's company decided to conduct audit of company in Pune zone. Accordingly on 23.7.2022 stock audit was conducted and it was found that there was misappropriation

to the tune of Rs.30,06,554/-. These accused were questioned. They did not give answers, instead, they left the company. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that he was working as the Vice-President and the alleged misappropriation has taken place at ground level in different distribution outlets, godowns etc.. It was not possible for the Applicant to have check and control at that level. The FIR does not provide any further details as to how the Applicant was responsible and as to how he himself was benefited from this offence. He submitted that during that period his mother had passed away and his wife was suffering from cancer and because of his personal reasons he has left the company. But, the company was not happy with his leaving the job, therefore, he is falsely implicated. He had left the job in July, 2022 and the FIR is lodged on 3.5.2023. Thus, it is lodged after about ten months from his leaving the company.

5. Learned APP opposed this application. He produced the investigation papers before me. He relied on the statements of other employees.

6. I have considered these submissions. The appointment letter of the Applicant dated 9.8.2021 mentions that he was appointed as a Business Head (Retail) and he was posted at Pune and Majavale Headquarters. There are statements of Auditor Shashikant Babar, Store Manager Sagar Londhe. Their statements are similar to the allegations in the FIR. The investigation shows various amounts with reference to different shoppes. Those amounts were misappropriated. The investigation is going on since May, 2023.

7. Since May 2023 the investigation has not revealed anything further than the suspicion expressed against the Applicant and others in the FIR. There are no details as to how the Applicant was concerned directly or indirectly with this misappropriation. Till today, there is nothing to show that the Applicant had received any of the misappropriated amount

or that there was something wrong which was committed at the behest of the present Applicant.

8. Learned counsel for the Applicant invited my attention to the emails addressed by one Vijay to the other officers of the company including the present Applicant. It was dated 14.2.2022. In that email, it was reported as to how software of billing and generating the bills was flawed and how there was mismatch of various amounts. No corrective measures appear to have been taken on that. Thus, there is a reasonable possibility that the Applicant is not involved in the misappropriation. The allegations in the FIR do not travel beyond suspicion. The FIR is lodged after about nine to ten months after the Applicant left that company.

9. Considering all these aspects, the Applicant's custodial interrogation would not be justified. The Applicant can be directed to attend the concerned police station on particular dates and can be directed to cooperate with the investigation. Hence, the following order :

ORDER

(i) In the event of his arrest in connection with C.R.No.68/2023 registered at Koregaon Park Police Station, Pune City, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the concerned police station from 4^{th} March, 2024 to 6^{th} March, 2024 between 1.00 p.m. to 5.00 p.m., and thereafter as and when called. He shall cooperate with the investigation.

(iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

PRADIPKUMAR PRAKASHRAO DESHMANE

Digitally signed by PRADIPKUMAR PRAKASHRAO DESHMANE
Date: 2024.02.16 13:24:02 +0530