IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 609 OF 2024

Narayan Taniya Poojary .... Applicant

Versus

The State of Maharashtra .... Respondent

Mr. Jayesh Bhosale a/w Advait Helekar, for the applicant.
Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 6th MARCH, 2024

P.C. :

1. The Applicant had earlier approached this Court for anticipatory bail in connection with C.R.No. 374 of 2023 registered at Powai Police Station, on 23/06/2023, under sections 406, 420 r/w 34 of the Indian Penal Code. Earlier his Anticipatory Bail Application No. 2012 of 2023 was argued before Her Ladyship Smt. Justice Anuja Prabhudesai. Vide order dated 01/08/2023, that application was dismissed as withdrawn. The said order reads thus:

> *"1. In the course of the hearing, learned APP has brought to my notice that in the application filed before the Sessions Court, the Applicant had claimed that he has retired from the partnership firm. The Applicant had also relied upon a retirement deed.*
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> *2. Learned APP states that it was reported that the Applicant had in fact not retired from the partnership firm and in fact, opened an account in the Indian Bank, wherein the name of the Applicant is shown as one of the partners. When this fact was brought to the notice, learned counsel for the Applicant conceded that the Applicant has not retired from the partnership firm and under instructions sought leave to withdraw the application. Leave is granted.*
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> *4. The application is dismissed as withdrawn."*

2. The Applicant had made a wrong statement before the Sessions Court that the Applicant had retired from the partnership firm and he had relied on the retirement deed. However, when the matter was heard before the High Court, on that date, the learned APP pointed out that the Applicant had not retired as one of the partners. When this fact was brought to the notice of the learned counsel for the Applicant, he also conceded that the Applicant had not retired from the partnership firm and then on instructions

withdrew that Application. Thus, the Applicant had made a wrong statement before the Sessions Court and that was one of the reasons why that Application was rejected.

3. Now the present Application is filed purportedly in the changed circumstances. After that order dated 01/08/2023, the charge-sheet is filed. The Applicant remained absconding. He was not arrested. The second change in circumstance claimed was that after the order dated 01/08/2023, the Investigating agency recorded statement of one Anthony Thomas on 09/12/2023 which to certain extent helps the present Applicant.

4. In my opinion, both these circumstances do not show any change in the circumstances. The Applicant cannot take advantage of his own wrong. He had not surrendered before the Police, after his anticipatory bail application was rejected.

5. The prosecution case is that, the FIR is lodged by one Zoher Calvert. He has stated that, in 2019, he came in contact

with Ravindra Kotian and Sanjiv Poojary. They told the informant that they had a business of canteen at IIT, Powai. They told the informant that the present Applicant and Navnit Poojary were also partners in that business. But the Applicant and Navnit wanted to retire from the partnership and therefore those two told the informant that he could replace the Applicant and Navnit. They also told the informant that he could earn substantial amount from that business and that, their partnership was getting profit of Rs. 40 lakhs per month. They told the informant that he could invest Rs. 1 crore in the business and using that money the Applicant and Navnit Poojary could get retired. The informant paid various amounts on different occasions. In all, he paid Rs. 91,25,000/-. The present Applicant also induced the informant to invest in that partnership firm. The allegations are that even after receiving that amount, in the partnership account; the Applicant did not retire from the partnership and the informant was not made a partner.

6. Learned APP pointed out that the Applicant was signatory to the cheques which could be issued by the partnership

firm. The amount given by the informant had gone in the account of the partnership firm and instead of taking that money and retiring from the partnership firm, the Applicant and others used that money in paying all their dues. They paid various vendors and other creditors.

7. Learned counsel for the Applicant referred to the statement of Anthony Thomas. He has stated that the accused Ravindra Kotian and Sanjiv Poojary had taken money from the informant to pay Rs. 49,00,000/- to the Applicant. But that money was used for paying dues of the creditors. He has stated that the other accused had used that money. However, the learned APP, pointed out that the cheques could be issued under the signature of the present Applicant as joint signatory of that account of partnership firm. Therefore, this solitary statement will not help the Applicant's case. Investigation shows that the money was taken from the informant under a false pretext of making him partner by retiring the Applicant from the partnership. But the Applicant has not retired from partnership firm and though he has

not accepted money personally but he has utilised that money for paying off the dues of the creditors.

8. The FIR mentioned that the Applicant had also made wrong representation and inducement to the informant. His role is clearly set out. In the background of earlier rejection of Anticipatory Bail Application No. 2012 of 2023, I do not find any change in the circumstances. I am not inclined to grant relief to the Applicant. The Application is rejected.

(SARANG V. KOTWAL, J.)