IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 664 OF 2024

Keyur Dinesh Pandya .... Applicant

Versus

The State of Maharashtra & Anr. .... Respondents

Mr. Vishal Deshmukh for the applicant.
Ms. Rajeshree V. Newton, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 8th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 12 of 2024 registered at Kashimira Police Station, under sections 201, 408, 420 of the Indian Penal Code.

2. Heard Mr. Vishal Deshmukh, learned counsel for the applicant and Ms. Rajeshree Newton, learned APP for the State.

3. The F.I.R. is lodged by one Sunil Poddar. He was having a Company by name Grace Cements Pvt. Ltd. The business of the Company was trading in cement and other building

materials. In September 2021, he got acquainted with the present Applicant. He was working in another Company as the commission agent. The informant told the Applicant that he was planning to start his own plant. The Applicant assured him that he would look after his plant. On 01/09/2021, the informant appointed the Applicant as the head of his plant. His job was to maintain the quality and looking after the billing and marketing. In June 2022, the informant's plant was made operational. It was completed under the control of the present Applicant. The access to the entire software was with the Applicant. Initially for 2 to 3 months, the plant was operating satisfactorily. In May 2023, the informant's C.A. Pawan Poddar prepared a provisional balance-sheet. He told the informant that his plant was incurring loss to the tune of around Rs. one and half crore. The C.A Pawan Poddar visited the plant and asked the applicant about the loss. The Applicant gave evasive answers. The informant and his C.A. checked the software from the Dev ERP Company, they came to know that between 21/06/2022 upto 18/09/2023, the Applicant had deleted more than 216 challans entries. He had prepared dummy bills. He had prepared bills of lesser value and had obtained cash amount from the Company's customers. The FIR mentions that the informant found that two bills of M/s Vision Infratech and VMA infratech for Rs. 21 lakhs and Rs. 26 lakhs respectively. But that amount of Rs. 47 lakhs was not found in the Company's account. The informant asked those parties about the payment. They told the informant that they had paid the entire payment in cash and through the bank transfer in the account of the Applicant. There was other allegation about falsification of the accounts. On these allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that as per the arrangement between the informant and the Applicant, the Applicant was to get 30 to 40% profit share in respect of the business of the Company. The Applicant's advocate had sent a notice dated 06/10/2023 addressed to the informant and had demanded his dues of Rs. 2 crores. Learned counsel submitted that after this notice was issued, to pressurise the applicant, and to avoid making payment of the dues, this false FIR is lodged against the Applicant. He also relied on the communication dated

01/09/2021 addressed by the informant's Company to the Applicant wherein it was mentioned that full- fledged agreement would be furnished to the Applicant shortly but that agreement was never furnished. This supports the Applicant's case that the arrangement between the Informant and the Applicant was beyond the scope of more payment as business head.

5. Learned APP opposed these submissions based on the investigation papers. She relied on the statements of the customers referred to in the FIR. She also relied on the bank statements showing entries where the amounts were directly deposited by the customers in the account of the Applicant.

6. I have considered these submissions. The investigating papers including statement of one Ajay Vishwakarma who was having his firm by name V.M.A. Infratech which is referred in the FIR. He has stated that in February 2022, this witness had gone to the informant's Company's plant at Ghodbander. He met the Applicant and since then he was purchasing concrete from Grace Cements Company. He was transferring the amount in the bank

account of the present Applicant. He had made payment in cash as well to the Applicant. He has stated that the Applicant had told this witness that he was a partner in the informant's Company. According to this witness, he had paid Rs. 26,67,818/- to the Applicant. This statement shows that the Applicant was directly taking money from the customers for the material supplied by the informant's Company.

7. Similar is the statement of one Dinesh Patel. He had also paid the amount in cash to the Applicant for the material purchased from the informant's company.

8. There are bank entries in respect of the bank account of the present Applicant which also show that M/s V.M.A. Infratech had directly paid certain amount in the bank account of the present Applicant.

8. All these circumstances and material collected show that the Applicant is involved in the offence. He has

misappropriated the money which was legitimately payable to the informant's Company. Apart from that, the investigation also shows that the Applicant had deleted many entries. There is no explanation from the Applicant. These entries were deleted using the Applicant's user ID. All these circumstances are strong circumstances against the present Applicant for which his custodial interrogation is necessary. No case is made out for grant of protection under Section 438 of Cr.P.C. The Application is rejected.

(SARANG V. KOTWAL, J.)