IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1419 OF 2024

Hasan Mehbub Shaikh ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO. 2211 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 1419 OF 2024
WITH
ANTICIPATORY BAIL APPLICATION NO. 1430 OF 2024
WITH
INTERIM APPLICATION NO. 2228 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 1430 OF 2024

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- Mr. Kuldeep U. Nikam, for Applicant.
- Ms. Megha S. Bajoria, APP for State.
- Mr. Jitendra Motwani, a/w Mr. C. Keswani, for Intervenor in IA/2211/2024 and IA/2228/2024.
- Mr. A.L. Shirole, PSI, Satara City Police Station.

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CORAM : MANISH PITALE, J.
DATE : 19th JUNE, 2024.

P. C. :

1. Heard learned counsel for the applicants in these two applications filed seeking anticipatory bail, as the applicants who are accused Nos.1 and 6 are apprehending arrest in connection with First Information Report No.0341 of 2024 dated 05th April, 2024, registered at Police Station Satara City, for the offences under Sections 406, 408 and 420 r/w 34 of the Indian Penal Code (IPC).

2. The FIR has been registered against six accused persons and as noted hereinabove, accused Nos.1 and 6 have filed these two applications seeking anticipatory bail. The FIR has been registered on the statement of the informant who is a Deputy General Manager (DGM) of Cooper Corporation. The present FIR has been registered in the backdrop of an earlier FIR, registered at the behest of the said company on 23rd March, 2024. The earlier FIR was registered when the company noticed that raw material being supplied to it was being illegally pilfered and taken out at the behest of the suppliers, to be subsequently resupplied to the said company, thereby causing losses.

3. In the earlier FIR dated 23rd March, 2023, the present applicants were not named as accused. But, applicant Shankar Kharade i.e. accused No.1 in the present case approached the Sessions Court apprehending arrest in the earlier FIR and by an order dated 04th May, 2024, he was granted anticipatory bail, subject to certain conditions.

4. The aforesaid company i.e. Cooper Corporation was being supplied with raw material by two entities Universal and KGN traders. While the person concerned with Universal i.e. one of the suppliers was arrayed as an accused in the earlier FIR dated 23rd March, 2024, in the present FIR, accused No.6 (applicant before this Court) is concerned with supplier KGN traders.

5. According to the investigating authority, the suppliers indulged in the said activity of pilfering raw material being supplied to Cooper Corporation and in carrying out the said illegal activity, the accused No.1 i.e. the applicant Shankar Kharade before this Court was involved, being the incharge storekeeper. It is stated by the informant in the present case that when further enquiries were made at the end of Cooper Corporation in the backdrop of FIR dated 23rd March, 2024, particularly when CCTV footage was taken note of, it came to light that the accused No.1, being the incharge storekeeper, was facilitating such pilferage of raw material, thereby causing huge loss to Cooper Corporation. It is alleged that as incharge storekeeper, the accused No.1 along with accused No.6 concerning the present FIR were ensuring that part of the raw material brought to Cooper Corporation was taken out of the premises of Cooper Corporation, thereby causing serious loss. It is alleged that this activity was noticed only recently while Cooper Corporation may have suffered losses over a considerable period of time.

6. In the statement of the informant, it is specifically alleged that the entries regarding the quantity of the raw material in the software i.e. SAP when compared with manual entries made by the workers of the production department showed discrepancies and in that backdrop when the CCTV footage was seen, the alleged role of the accused No.1 along with accused No.6

i.e. the applicants before this Court, came to light.

7. It is further brought to the notice of this Court that during the course of investigation, a panchnama was drawn of the cabin of the accused No.1, wherein it was found that a tiffin box contained cash amount of Rs.30,000/-, which needs to be explained by the accused No.1. It was further brought to the notice of this Court that one of the suppliers companies i.e. universal had transferred significant amounts into the joint account of the accused and his wife, for which there is no explanation. It is also alleged that certain amounts were transferred in the account of the accused No.1 also. On this basis, it is submitted that both the accused persons have a major role to play in the present case concerning serious offences and therefore, custodial interrogation is required.

8. The learned counsel for the applicants submitted that insofar as accused No.1 i.e. Shankar Kharade is concerned, he is the incharge storekeeper. Even as per the narration given in the statement of the informant in the present case, the accused No.1 is supposed to ensure entries of the quantities of raw material received in the store and thereafter to supply such raw material to the production department as per the demand of the said department. In the present case, the SAP entries at the end of the store department when compared with the SAP entries in the production

department match and there is not even an allegation of discrepancies in the same. On this basis, it was submitted that there is hardly any material connect the accused No.1 with the alleged pilferage of raw material causing financial loss to Cooper Corporation. It is further submitted that the discrepancies, if any, even as per the statement of the informant were between the SAP entries of the production department, when compared with the manual entries made by the workers, who actually took the raw material to be utilized for producing the finished product. Therefore, it was submitted that no specific role can be attributed to the accused No.1.

9. It was further submitted that in the earlier FIR dated 23rd March, 2024, the accused No.1 has not even been named as an accused. In any case, the Sessions Court found it fit to grant anticipatory bail to the accused No.1 by order dated 04th May, 2024, insofar as the earlier FIR dated 23rd March, 2024, was concerned. It is submitted that the applicant accused No.1 cooperated with the investigating officer and it cannot be alleged that he has been absconding. Perhaps, after registration of the present FIR dated 04th May, 2024, since the applicant accused No.1 has serious apprehension about his arrest, he may have defaulted in reporting to the investigating officer till interim protection was granted by the Sessions Court, in the present case.

10. As regards the entries in the bank accounts, it was submitted that

the applicant accused No.1 indulges in investing amounts in the share market and the said activity is looked after by the wife of the accused No.1 and it was in connection with the said activity that amounts were received. In the face of such an explanation, it was submitted that since the applicant accused No.1 intends to cooperate with the investigation, no case is made out for custodial interrogation.

11. As regards accused No.6, it was submitted that he is incharge of one of the supplier companies and his mere presence in the premises of Cooper Corporation cannot necessarily lead to any conclusion against him. In any case, the said applicant accused No.6 is also ready to cooperate with the investigation and therefore, this Court may allow the present applications.

12. On the other hand, learned APP reiterated the sequence of events as recorded hereinabove and submitted that transfer of amount into the bank accounts concerning the applicant accused No.1 sufficiently indicates his involvement, coupled with the fact that the cash amount of Rs.30,000/- was recovered in a tiffin box from his cabin, for which proper panchanama was executed. It was submitted that the earlier FIR dated 23rd March, 2024 and in that backdrop the present FIR dated 04th May, 2024, sufficiently bring out the role of the applicants in the present case concerning serious offences committed against the Cooper Corporation of which the applicant accused

No.1 is an employee. It is submitted that despite having enjoyed interim protection, when the application of the applicant accused No.1 was pending consideration before the Sessions Court, he did not report to the investigating officer and according to the learned APP, the applicant accused No.1 is absconding. On this basis, it was submitted that the present applications may be dismissed.

13. The learned counsel appearing for the informant, who is the DGM of Cooper Corporation submits that there is sufficient material to indicate the direct involvement of both the applicants in the present case and therefore, unless the applicants are apprehended the investigation may not go in the right direction.

14. This Court has elaborately recorded the sequence of events as discernible from the documents on record. The present FIR has to be read in the backdrop of the earlier FIR dated 23rd March, 2024, whereby Cooper Corporation for the first time became aware of pilferage of raw material from its premises. In the earlier FIR, one of the accused is a person directly concerned with the supplier Universal and accused No.6 in the present is concerned with the other supplier of raw material i.e. KGN Traders. This Court has considered the specific allegation made in the statement of the informant leading to registration of the FIR. It is an admitted position that

the applicant accused No.1 is the incharge storekeeper of Cooper Corporation. The receipt of raw material and its supply to the production department is all undertaken under the supervision of the applicant accused No.1. At this stage, merely because the SAP entries of the store department and the such entries of the production department are found to be matching, cannot be a ground to reach the conclusion that the applicant accused No.1 has made out *prima facie* case in his favour. In fact, it is alleged against the applicant accused No.1 that he was actively involved in such pilferage of raw material, leading to financial losses to the Cooper Corporation. The entries in the joint account held by the applicant accused No.1 with his wife and his own account showing transfer of significant amounts by one of the suppliers i.e. Universal, clearly raise suspicion against the said applicant. The explanation sought to be put forth on his part, at this stage, cannot be taken into account while considering the prayer for grant of anticipatory bail. Such transfer of amounts by the supplier into the individual account of the applicant accused No.1 does raise serious suspicion about his involvement.

15. The statement of the informant in the present case makes a specific allegation about the presence of accused No.6 with the applicant accused No.1 in the store when raw material was being received. The accused No.6 is concerned with the other supplier i.e. KGN Traders and it is alleged that accused No.6 took active part in the alleged pilferage of raw material,

which was taken out from the premises of Cooper Corporation, leading to financial losses. It appears that the aforesaid activity came to light in March, 2024, leading to registration of the earlier FIR dated 23rd March, 2024 and the follow up action led to registration of the present FIR on 05th April, 2024. The documents on record and statement made by the learned APP indicate that although initially the applicant accused No.1 appears to have presented himself before the investigating officer, subsequently he has failed to abide by specific conditions imposed upon him, while granting him anticipatory bail, as per order dated 04th May, 2024.

16. Considering the aforesaid material, particularly in the backdrop of the allegations made against the applicants in the present case, concerning serious offences under the IPC, no case is made out for grant of anticipatory bail. Accordingly, the applications are dismissed.

(MANISH PITALE, J.)