IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1693 OF 2024

Akshay Vijay Sakpal ...Applicant

Versus

The State of Maharashtra ...Respondent

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- Adv. Sudatta J. Patil a/w Adv. Prajay P. Kutkar and Adv. Prashant Bandgar, for Applicant.
- Mr. Sagar R. Agarkar, APP for State.
- Mr. Amol A. Khade, PSI, Uran Police Station, Navi Mumbai, present.

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CORAM : MANISH PITALE, J.
DATE : 27th JUNE, 2024.

P. C. :

1. Heard learned counsel for the applicant and the learned APP for the State.

2. The applicant has filed the present application apprehending arrest in connection with First Information Report No.0187 of 2024, dated 19th April, 2024 registered at Police Station Uran, for the offences under Sections 409 and 420 read with 34 of the Indian Penal Code (IPC).

3. The informant in the present case is a Divisional Manager of a Non-banking Financial Company. The applicant is the Branch Manager thereof. According to the informant, when enquiries were carried out, it was found that the applicant was receiving cash amounts from borrowers and instead of depositing the said amounts towards repayment of installments of

such borrowers, he allegedly misappropriated the amounts and diverted them to the accounts of his relatives. It is alleged that the applicant, as the Branch Manager, returned gold to certain borrowers who had taken loan in lieu of deposit of such gold, despite the fact that the such borrowers had not cleared their dues. On this basis, it is alleged that the applicant caused financial loss to the said Non-banking Financial Company.

4. The learned counsel for the applicant submits that it appears to have been a common practice that cash amounts were collected from the borrowers and they were deposited in their loan accounts. It is submitted that the applicant was merely following such a common practice. It is further submitted that there is no forensic audit carried out by the company and that the applicant is sought to be made a scapegoat for certain losses that may have been caused to the company. It is submitted that in these circumstances, so long as the applicant is ready to cooperate with the investigation and the entire investigation really concerns documentary material, this Court may consider allowing the present application.

5. On the other hand, learned APP submits that in view of the seriousness of the matter and the material that has come to light during the course of investigation, the Investigating Authority is seriously contemplating adding offences under Sections 467, 468 and 477(A) of the Indian Penal

Code in the present case. On this basis, it is submitted that the application may be dismissed.

6. This Court is of the opinion that the applicant, being the Branch Manager of the Non-banking Financial Company, concerned with advancing loans to the borrowers and ensuring that such loan amounts are returned, was performing a duty of great responsibility. The allegations against the applicant, who is such a Branch Manager, are extremely serious, which have led to registration of the offences against him. The applicant is alleged to have collected cash amounts from borrowers, which is in itself is a dubious practice and on top of it, he diverted the said amounts, as a consequence of which, the borrowers have suffered. In the process, the company itself has suffered financial loss, which clearly indicates that investigation into the matter is necessary to bring out the *modus operandi* adopted in the present case for duping, not only the borrowers, but the company itself.

7. This Court is of the opinion that in such facts and circumstances, it cannot be said that merely because the Investigating Authority can look at the accounts of the company and that investigation would be involving documentary material, the custodial interrogation of the applicant is not necessary. This Court is of the opinion that the facts of the present case and the serious allegations levelled against the applicant, indicate that unless the

Investigating Authority is allowed to investigate without any restraints, there is possibility of the entire *modus operandi* not coming to surface.

8. In view of the above, no case is made out for anticipatory bail. The application is rejected.

(MANISH PITALE, J.)