IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2100 OF 2024

Wasim Nazir Patel ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. Mubin Solkar a/w Tahir Hussain, Anas Shaikh and Tanveer A. Patel for the Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Mr. Vinod S. Labhade, PSI, Panvel City Police Station, Navi Mumbai.

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CORAM: MANISH PITALE, J.
DATE : 9th AUGUST 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0589 of 2023 dated 27th October 2023 registered at Panvel City Police Station, Navi Mumbai, for offences under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 (IPC) and Section 48(7) of the Maharashtra Land Revenue Code, 1966.

3. The informant is a Circle Officer and the allegations in his statement are that certain fake royalty receipts were prepared by unknown accused persons in connection with excavation of minor mineral/sand, as a consequence of which huge loss has been caused to the State Exchequer. Initially, the FIR was registered against

unknown persons, but during the investigation, five persons, including the certain quarry owners, were identified and named as accused persons. The applicant is a building material supplier, who was shown as a wanted accused in two remand applications filed by the investigating authority on 1st April 2024 and 3rd April 2024, but subsequently in the remand application dated 19th April 2024, his name was dropped. This Court is informed that in the charge-sheet i.e. the final report, the applicant has not been arraigned as an accused and there is no allegation against him. But, according to the applicant, the Police started visiting his premises, due to which he apprehended arrest and therefore, he moved the Sessions Court for anticipatory bail, the application was rejected and hence, the applicant is constrained to approach this Court.

4. The learned counsel for the applicant explained the business model of the applicant as a building material supplier. He submits that when an end user or customer contacts the applicant for supply of building material, including sand used for construction, he places orders with transporters, who in turn collect the aforesaid minor mineral/sand from the quarry owners and supplies the same to the end user, indicated by the applicant. Payment is made to the transporter by the applicant on the basis of the quantity of material supplied and the applicant in turn charges the end user for his services. It is submitted that in this process, there is no question of the applicant being connected with royalty receipts that are issued by the Government and merely because

bills and challans issued by the applicant for the end user, are found with certain alleged fake royalty receipts, it cannot be said that the applicant is in any manner connected with the offences in question.

5. It is emphasized that since the name of the applicant was dropped by the investigating authority itself in the remand application dated 19th April 2024 and his name does not feature in the charge-sheet, this Court may allow the present application, as the applicant undertakes to cooperate with further investigation, if any.

6. The learned APP, on the other hand, invited attention of this Court to a report given by the IT company that issues royalty receipts on behalf of the concerned department of the Government. It is highlighted that in the said report, along with the alleged fake royalty receipts, bills and challans attributable to the two proprietary firms of the applicant and his father were found, indicating his involvement in the present case. It is submitted that further investigation is being undertaken and supplementary charge-sheet will be filed, indicating that this Court may not show any indulgence to the applicant, particularly because huge loss has been caused to the State Exchequer.

7. This Court has considered the rival submissions in the light of the material available on record. The royalty receipts are issued by the concerned department of the Government on the basis of

estimated quantity of minor mineral/sand that can be excavated from a particular site on the basis of license issued for excavation. Such royalty receipts are issued through the aforementioned IT company. The royalty receipts are significant because they are proof of the fact that the minor mineral/sand being excavated and supplied is legal and that royalty has been paid to the State, for such minor mineral/sand.

8. A perusal of the statement of the informant, leading to registration of the FIR, indeed shows that if such royalty receipts in large numbers are found to be fake, certainly significant loss is caused to the State Exchequer. The nature of allegations does indicate ingredients of offences alleged against the accused persons.

9. It is significant that the FIR was registered against unknown persons and it is only during the course of investigation, that certain individuals, including quarry owners were identified as being responsible in creating such fake royalty receipts. The name of the applicant featured for the first time as a wanted accused in a remand application dated 1st April 2024. Thereafter, it was also mentioned in the remand application dated 3rd April 2024. But, significantly in the remand application dated 19th April 2024, the name of the applicant and his two proprietary firms was dropped from the array of accused persons. The charge-sheet also does not show the applicant as an accused person, as there is no allegation against him in the charge-sheet. Yet, it appears that the

investigating authority is sending it officials to the premises of the applicant, while purportedly undertaking further investigation and this has given rise to apprehension in the mind of the applicant, leading to filing of the present applicant.

10. The documents brought to the notice of this Court indicate the role of the applicant in the process of supplying the minor mineral/sand to end users i.e. parties undertaking construction, wherein such sand is required. The documents placed on record show the manner in which the two proprietary firms of the applicant and his father undertake business. It appears that on an end user placing an order for supply of sand, the applicant reaches out to a transporter for supply of such quantity of sand. The transport in turn picks up the quantity of sand from a quarry owner, who gives the royalty receipts to the transporter and eventually, the transporter supplies the sand to the end user with such royalty receipts, challans and bills, including the bill generated by the applicant through the said proprietary firms.

11. There is substance in the contention raised on behalf of the applicant that in such a process, the documents concerning the proprietary firm in the forms of bills, etc, would certainly be found with the end user, who in turn would be annexing such documents to the royalty receipts received from the quarry owner, to be submitted to the relevant authority, so that such authority is satisfied about the fact that the sand being used by the end user is legally excavated sand.

12. Although, the report of the IT company indicates that some royalty receipts were found to be fake and that such alleged fake royalty receipts were found along with the challans/bills issued by the proprietary firms with which the applicant is concerned, that in itself does not appear to make out a *prima facie* case against the applicant about involvement in the offences in question, which include the serious offence under Section 467 of the IPC.

13. It is perhaps for this reason that the investigating authority itself dropped the name of the applicant from the remand application dated 19th April 2024 and his name has not featured at all in the charge-sheet and the documents filed therewith.

14. In such a situation, under the garb of further investigation and the purported necessity of filing the supplementary charge-sheet, it does not appear to be logical for any coercive action to be taken against the applicant.

15. Hence, the applicant has made out a case for granting anticipatory bail, particularly, when he undertakes to cooperate with the investigation.

16. In view of the above, the application is allowed in the following terms :

(a) In the event the applicant is arrested in connection with FIR No.0589 of 2023 dated 27th October 2023 registered at Panvel City Police Station, Navi Mumbai, he shall be released on bail on furnishing PR Bond of Rs.25,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(b) The applicant shall remain present before the Investigating Officer on 13th August 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when required by the Investigating Officer. The applicant shall cooperate with the investigation.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with the case.

17. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application.

18. The application is disposed of.

MANISH PITALE, J.