

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

Anticipatory Bail Application No.2326 of 2024

Siyab Razak Saheb

Aged about 33 years,

Occ: Service, R/at: 2/10d,

Katte Bagilu, Byndoor Taluk,

VTC Badakare, PO: Badakere,

Sub-Dist. Kundapura, Dist. Udupi,

State Karnataka 576 224.

... Applicant

Vs.

The State of Maharashtra

(Through Colaba Police Station,

Mumbai)

... Respondent

Mr Shyamrishi Pathak, along with Mr Ganesh Singh, for the applicant.

Ms Supriya Kak, APP, for the respondent/ State.

API Kandekar, Colaba Police Station, is present.

Coram: R.N. Laddha, J.

Date: 20 August 2024

P.C.:

By this application, the applicant seeks bail in anticipation of arrest in connection with CR No.274 of 2023, registered at Colaba Police Station, Mumbai, for the offences punishable under Sections 407 read with 34 of the Indian Penal Code.

2. As alleged by the prosecution, on 16 November 2023, the co-accused, who was driving the truck with the registration

No.KA 20 D 4353, was entrusted with transporting fish valued at Rs.15,79,610/- from Colaba, Mumbai, Maharashtra, to Malpe, Udupi, Karnataka, for delivery to the buyer the following day. However, the goods were never delivered, and upon investigation, the informant found that the truck had been abandoned in Belagavi, Karnataka, with the goods already unloaded. The applicant is accused of conspiring with the truck driver to misappropriate the goods.

3. Mr Shyamrishi Pathak, the learned Counsel appearing on behalf of the applicant, contends that the applicant is merely a manager of his cousin's business and had no direct involvement in the events in question. The learned Counsel explains that the truck's owner, Shaban Kadar, had hired driver Salman and his friend Aleem to transport the informant's goods. When the driver became unresponsive, the applicant assisted the informant in locating the abandoned truck and promptly lodged a complaint at the Byndoor Police Station in Udupi, Karnataka. The learned Counsel asserts the applicant's innocence, claiming false implication, and expresses willingness to comply with any conditions imposed by the Court.

4. Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State, contends that the offence is severe and involves a conspiracy between the applicant and the truck driver to misappropriate the goods. After the commission of

the offence, the applicant continued to maintain communication with the co-accused, the driver. Further, the applicant was aware of the missing goods on 17 November 2023; however, the complaint was lodged at Byndoor Police Station, Udupi, on 19 November 2023 whereas the present FIR was lodged on 18 November 2023. These events suggest that the lodging of the complaint at Udupi is an afterthought. The learned APP highlights the statements of Shaban Kadar and the co-accused, indicating the applicant's ownership and the management of the vehicle. With the truck driver absconding and goods still unrecovered and the applicant's lack of cooperation, necessitates his custodial interrogation.

5. After reviewing the records, it transpires that the applicant is accused of conspiring with the co-accused to misappropriate the informant's goods, valued at Rs.15,79,610/-. On 16 November 2023, the truck driver agreed to transport the informant's goods from Mumbai to Malpe by the evening of 17 November 2023. However, the truck did not reach its destination, and GPS tracking revealed it was in Belagavi. When the informant's associate investigated, it was found that the truck had been abandoned and the goods unloaded and missing, leading to the filing of the present crime on 18 November 2023. Although the applicant claims to have assisted the informant in tracing the truck and filing a complaint in Udupi on 19

November 2023, the Call Detail Records (CDRs) show the applicant was in constant touch with the co-accused truck driver after the offence was registered. Furthermore, the applicant claims that he is not the truck's owner, but Shaban Kadar's statement reveals that Shaban availed a loan in his name as the applicant was ineligible. Shaban was the ostensible owner of the vehicle, and its control and management were always with the applicant. Notably, from the tenor of the applicant's complaint registered at Byndoor Police Station, Udupi, it appears that the applicant is the real owner of the truck involved. There is sufficient material to indicate the applicant's involvement in the crime. The investigation is in progress. The goods are yet to be recovered. Considering the above, the applicant's custody would be necessary for further investigation. As a result, the present application stands rejected.

(R.N. Laddha, J.)