IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2445 OF 2024

Muktesh Ashok Kadam	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Nitin Gaware Patil a/w. Mr. Shantanu Kolhe and Mr. Shubham Wadne for applicant.

Mr. Balraj B. Kulkarni, APP for respondent-State.

Mr. Kiran Deshmukh, API, Khadki Police Station, District Pune City.

CORAM : MANISH PITALE, J.
DATE : 12th SEPTEMBER, 2024

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No.0147 of 2024 dated 15.05.2024 registered at Khadki Police Station, District Pune City for offences under sections 406, 420, 467 and 468 of the Indian Penal Code, 1860.

3. The informant in the present case is the sales manager of a finance company, which had advanced loan to a partnership firm of which the applicant is a partner. It is stated that after two-stage verification of the application for loan moved on behalf of the partnership firm, in July 2022, loan was disbursed in favour of the partnership firm. It is further stated that

when a further verification was undertaken, some discrepancy was found in the signature of the other partner of the partnership firm and it came to light that the signature of the said other partner had been forged. On this basis, the aforesaid offences have been registered against the applicant. There are only two partners in the said partnership firm.

4. The learned counsel for the applicant submitted that in the present case, a dispute between the partners is unnecessarily being given the colour of criminality. It is submitted that the dispute between the partners has now led to a situation, where the other partner has moved a petition under section 11 of the Arbitration and Conciliation Act, 1996 (Arbitration Act) before this Court for appointment of an arbitrator. It is submitted that the applicant himself was constrained to approach the police in December 2022 against the said other partner, in the light of the disputes between them and certain acts undertaken by the partner which gave rise to an apprehension to the applicant about safety of his life and limb. Attention of this Court was invited to the fact that the documents issued by the finance company itself show that substantial amount of loan has been already repaid and that the last installment is due in August 2025. It is submitted that a civil/commercial dispute between the partners of the firm is being given the colour of criminality. The applicant is ready to co-operate with the investigation.

5. On the other hand, the learned APP relies upon the statement of the informant to indicate that the ingredients of the offences are made out against the applicant. Reference is also made to the investigation papers, particularly the statement of other partner of the firm, which states that he was totally unaware about the loan being applied for and being disbursed by the finance company. He has alleged that he has never signed any document.

6. This Court has considered the rival submissions in the light of the material placed on record. The present application deserves to be allowed for the following reasons:

(a) In the present case, from the material on record, it is *prima facie* evident that the partners of the firm have raised disputes against each other. The present FIR has to be appreciated in the backdrop of such disputes between the two partners.

(b) The other partner of the partnership firm has already filed a petition for appointment of arbitrator under the provisions of the Arbitration Act. The said petition is pending before this Court, indicating that there are indeed disputes between the partners.

(c) The informant in the present case, being sales manager of the finance company, has claimed that a further verification of the loan disbursed to the partnership firm was carried out when the alleged forgery came to light. Apparently, there does not appear to be any reason for further verification to be carried out by the finance company, when the loan was disbursed as far back as on 19.07.2022, with a major part of loan being repaid and the last installment being due on 02.08.2025.

(d) The statement of the informant itself indicates that before the loan was disbursed, a two-stage verification was undertaken by the finance company. This further indicates that the further verification undertaken by finance company, leading to registration of FIR, is in the backdrop of the bitter dispute between partners. There is substance in the contention raised on behalf of applicant that the civil/commercial dispute between the partners is now sought to be given the colour of criminality.

(e) In any case, in terms of the Partnership Act, 1932, a partner would have an implied authority to undertake such steps like applying for loan, etc. in connection with the business of the firm. This aspect also indicates that the dispute now being raked up, can be said to be an after-thought, in the backdrop of the police complaint lodged by the applicant himself against the other partner.

(f) The statement of the other partner that he was completely unaware about the fact that loan had been applied for and that it was disbursed, *prima facie* appears to be unsustainable, for the reason that he is very much a partner of the said firm, having access to its record and documents and it is unbelievable that an active partner would not be aware of the fact that the loan was disbursed as far back as on 19.07.2022 and regular installments were being paid.

(g) The applicant is ready to co-operate with the investigation.

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

(i) In the event the applicant is arrested in connection with FIR No.0147 of 2024 dated 15.05.2024 registered at Khadki Police Station, District Pune City, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;

(ii) The applicant shall remain present before the Investigating Officer on 14.09.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when required by the Investigating Officer.

(iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;

(iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

8. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

9. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

10. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli