

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2892 OF 2024

Mukesh Ramesh Rathod ... Applicant
Vs.
State of Maharashtra ... Respondent

AND

ANTICIPATORY BAIL APPLICATION NO.2893 OF 2024

Pranav Mukesh Rathod ... Applicant
Vs.
State of Maharashtra ... Respondent

AND

ANTICIPATORY BAIL APPLICATION NO.2894 OF 2024

Robin Subhashchandra Shandilya ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Kishor Gaikwad a/w. Mr. Ashutosh K. Gaikwad for Applicant in all ABAs.
Mr. Balraj B. Kulkarni, APP for Respondent-State in ABA/2892/2024.
Ms. Rutuja A. Ambekar, APP for Respondent-State in ABA/2893/2024.
Mr. Tanveer Khan, APP for Respondent-State in ABA/2894/2024.
Mr. Manohar Kshirsagar, PSI, Mhasrul Police Station, Nashik City.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 25, 2024

P.C. :

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

2. The applicants are apprehending arrest in connection with FIR No.I-175 of 2024 dated 06.07.2024 registered with Mhasrul Police Station, District - Nashik, for offences under Sections 420, 465, 267, 468, 471 read with Sections 34 and 120-B of the Indian Penal Code,

1860 (IPC).

3. In these three applications, the applicants in Anticipatory Bail Application Nos.2892 of 2024 and 2893 of 2024 are family members i.e. father and brother of co-accused Saurabh Mukesh Rathod, whose Anticipatory Bail Application No.2739 of 2024 was allowed by this Court by an order dated 10.10.2024. The aforesaid applicants are seeking relief on the ground of parity. The applicant in Anticipatory Bail Application No.2894 of 2024 is a chartered accountant and it is submitted that even if the statement of the informant is taken into consideration, the allegation levelled against the said applicant does not justify his custodial interrogation.

4. The statement of the informant, leading to registration of the FIR, runs into several pages and the informant has traced the sequence of events from the year 2018 onwards. Broadly speaking, the grievance of the informant appears to be that the applicants and their family members duped her and her husband during the course of forming partnership firm and purchasing a sugar factory. It appears that the grievance of the informant is that while she and her husband pumped in finances for purchase of the sugar factory, the applicants and their family members failed to bring any finances. Eventually, dispute arose between the parties and when it came to the informant and her husband deciding to retire from the partnership firm and seeking their rightful dues, the applicants and their family refused to give them their dues, resulting in disputes amongst them and eventually, the FIR being registered.

5. As noted hereinabove, Mr. Gaikwad, learned counsel for the applicants submits that the principle of parity ought to apply in favour of the aforesaid applicants being father and brother of co-accused Saurabh Mukesh Rathod and the submissions as recorded by this Court, made on behalf of the said co-accused Saurabh Mukesh Rathod, in the

aforementioned order granting him relief, are reiterated before this Court. As regards the applicant in Anticipatory Bail Application No.2894 of 2024, it is submitted that the said co-accused person is a chartered accountant and the allegation levelled against him is that cash amount of Rs.7 lakhs was allegedly handed over by the informant and her husband to the said applicant for execution of a mortgage deed in the context of the commercial transactions, that have formed the basis of the dispute between the parties.

6. The learned APPs appearing in these applications have vehemently opposed the instant applications. It is submitted that the role of co-accused Saurabh Mukesh Rathod could be said to be limited in nature and therefore, parity cannot be claimed by his father and brother, who are the applicants before this Court. It is further submitted that signatures of co-accused - Hydros Kutty have been forged by the aforesaid applicants in the documents purportedly executed during the course of the commercial transactions. It is submitted that the applicant accused - Pranav Mukesh Rathod signed on behalf of the said co-accused - Hydros Kutty even before the power of attorney could be executed in his favour. This contention is countered by the learned counsel for the said applicant by relying on the authority-cum-declaration said to have been executed by the co-accused Hydros Kutty in favour of the applicant accused - Pranav Mukesh Rathod. It is submitted that serious allegations are levelled against the applicants and therefore, relief may not be granted in these applications, particularly because the co-accused - Hydros Kutty is absconding.

7. In the said order dated 10.10.2024 passed in Anticipatory Bail Application No.2739 of 2024 of co-accused Saurabh Mukesh Rathod, this Court had observed as follows:-

“11. Eventually, it appears that the informant and her husband decided to move out of the business and they even agreed for

retiring from the partnership firm, subject to their dues being paid. In that light, deed of admission cum retirement was executed, whereby it was proposed that a third party would enter as a partner in the partnership firm. A memorandum of understanding cum settlement agreement was also executed, to which the husband of the informant was a party. It is relevant to note that all these documents i.e. the partnership deed, the admission cum retirement deed, as also the memorandum of understanding cum settlement agreement contained arbitration clauses. The nature of dispute *prima facie* appears to be commercial / civil in nature, wherein the informant and her husband are interested in return of their rightful dues from the applicant and the co-accused persons. In that sense, it can be said that a colour of criminality is sought to be given to a dispute that *prima facie* appears to be commercial / civil in nature. It is to be noted that even the father of the applicant had approached the police with regard to grievances against the informant and her husband, thereby indicating that perhaps both sides have been making an attempt to involve the investigating machinery in order to settle the disputes arising between them. The root cause of the dispute being the business venture that was stated by the husband of the informant and father of the applicant, this Court is of the opinion that protection can be granted to the applicant, so long as he undertakes to co-operate with the investigation.”

8. This Court is of the opinion that the above-quoted observations and reasoning equally apply to the applicants in these three applications. Insofar as the applicants in Anticipatory Bail Application Nos.2892 of 2024 and 2893 of 2024 are concerned, they are the father and brother of co-accused Saurabh Mukesh Rathod. The only specific allegation sought to be pressed against them is that they allegedly forged the signature of co-accused Hydros Kutty and at few places, the applicant accused - Pranav Mukesh Rathod had signed on behalf of the co-accused Hydros Kutty, without any power of attorney or such document of that nature being executed in his favour.

9. This Court is of the opinion that in the light of the declaration for authorized signatory forming part of the documents on record, wherein the said Hydros Kutty had authorized the applicant accused Pranav

Mukesh Rathod to sign on his behalf on the admission-cum-retirement deed, as also the memorandum of understanding-cum-settlement agreement, a *prima facie* case is made out by the said applicant in his favour to claim that the allegation regarding forgery or unauthorized signatures is not made out against the applicant and the issue has been raked up in the backdrop of commercial / civil disputes between the parties. This Court finds that *prima facie* it can be said that colour of criminality is sought to be given to a commercial / civil dispute in the present case. In the above quoted observations / reasoning in the order passed in favour of co-accused Saurabh Mukesh Rathod, this Court did refer to the arbitration clauses in the admission-cum-retirement deed, as well as the memorandum of understanding-cum-settlement agreement. The existence of the arbitration clauses is also a crucial factor in the present case.

10. As regards the applicant in Anticipatory Bail Application No.2894 of 2024, the said applicant is a chartered accountant and the only allegation levelled by the informant against him is that, she had allegedly given amount of Rs.7 lakhs in cash to the said applicant for being given to the co-accused Mr. Shetty, who is the manager in the concerned bank, in the context of a mortgage deed to be executed. There is substance in the contention raised on behalf of the said applicant that when the informant herself is a chartered accountant, the theory about having given substantial amount of Rs.7 lakhs in cash to another chartered accountant in order to ensure that the mortgage deed is executed, *prima facie*, appears to be against the natural course of human conduct.

11. *Prima facie*, it appears that when serious disputes have arisen between the parties, which are essentially found to be commercial / civil in nature, the informant has not only roped in the family members of the

applicant Mukesh Ramesh Rathod, but all persons associated with him in the context of the transactional documents executed between the parties. As regards the insistence of the learned APPs, on instructions, that custody of the applicants is required to know the whereabouts of the co-accused Hydros Kutty, the applicants have claimed that they have already given the information and that, they would continue to co-operate with the investigation by providing further information as may be available with them with regard to the said co-accused Hydros Kutty.

12. This Court is inclined to grant relief to all the applicants, for the reason that a strong *prima facie* case is made out on their behalf to claim that a dispute, essentially commercial / civil in nature, is being given the colour of criminality in order to arm-twist the accused persons into giving in to the demands of the informant and her husband. This Court is not commenting as to whether their demands are justified or not but the dispute is commercial / civil in nature and there are arbitration clauses in the relevant transactional documents. Hence, triggering criminal proceedings *prima facie* could be said to be an attempt to use the same as a pressure tactic. In view of the above, the applications are allowed in the following terms:-

- A. In the event the applicants are arrested in connection with FIR No.I-175 of 2024 dated 06.07.2024 registered with Mhasrul Police Station, District - Nashik, they shall be released on bail on furnishing PR Bond of Rs.50,000/- each with one or two sureties each in the like amount, to the satisfaction of the trial Court, if not required in any other offences;
- B. The applicants shall remain present before the investigating officer on 28.10.2024 and 29.10.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the

investigating officer;

- C. The applicants shall co-operate with the investigation, including producing all documents in their possession as may be demanded by the investigating officer, as also providing of the details of co-accused Hydros Kutty as are being available with the applicants;
- D. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

13. Needless to say, violation of any of the aforesaid conditions would make the applicants 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 applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

14. The applications are disposed of.

(MANISH PITALE, J.)

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