

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3168 OF 2024

Harshal Vijaykumar Kasabe ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Vaibhav Kulkarni a/w. Mr. Prathamesh Deshpande and Mr. Yash Agarwal for Applicant.

Mr. Bapu V. Holambe-Patil, APP for Respondent-State.

Mr. D. H. Pawar, ASI, Shirwal Police Station, Satara.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 28, 2024

P.C. :

. Heard Mr. Kulkarni, learned counsel for the applicant and Mr. Holambe-Patil, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0269 of 2024 dated 07.08.2024 registered with Shirwal Police Station, District - Satara, for offences under Sections 316(4), 318(4) read with Section 3(5) of the Bhartiya Nyaya Sanhita, 2023 (BNS).

3. The informant, in the present case, is working with the company of which, the applicant is also an employee. It is stated that when one Vijay Nigade, a driver with a transport company engaged by the company in which the applicant is working, gave a complaint to the police and information was sought, that the informant, upon enquiry, came to know that raw material, in the form of ball-bearings worth about Rs.16.34 lakhs, was missing from the godown of the company. Upon enquiry, according to the informant, it was found that the applicant was responsible for the same and that he had connived with the co-accused

persons. It is to be noted that the said Vijay Nigade is also arraigned as an accused in the present case.

4. The learned counsel for the applicant submits that the FIR has been registered out of rivalry between the informant and the applicant, both of whom are employees of the same company. Much emphasis is placed on the fact that the applicant continues to be employed by the said company and he has been granted an increment in October 2024, despite the fact that the FIR was registered on 07.08.2024. It is submitted that the applicant is ready to co-operate with the investigation and statements of co-accused persons cannot be used against him.

5. On the other hand, the learned APP submits that merely because the applicant has continued in the employment of the said company, it cannot be said that there is no *prima facie* case against the applicant. Reference is made to the statements recorded during the course of investigation, including statements of co-accused persons, who have indicated that the aforesaid raw material, illegally taken out of the custody of the company, was kept in the house of co-accused Vijay Nigade and thereafter, the applicant took the same away and there is no clue as to the manner in which he disposed of the said material. It is submitted that the Sessions Court has recorded the fact that when interim relief was granted to the applicant, he did not co-operate with the investigation. On this basis, the learned APP seeks dismissal of the application.

6. This Court has heard the rival submissions. The statement of the informant does indicate that according to the enquiries conducted in house, the applicant was found to be responsible for the raw material being illegally taken away from the premises and custody of the company. The statements recorded during the course of investigation, including the statements of co-accused persons, particularly the co-

accused driver Vijay Nigade, *prima facie*, indicate that the raw material was illegally taken out at the behest of the applicant, initially kept in the house of co-accused Vijay Nigade and thereafter it was taken away by the applicant.

7. The allegations against the applicant are serious, for the reason that being an employee of the company, he was one of the persons, holding such raw material in trust and therefore, *prima facie*, the ingredients of the offences registered against the applicant can be said to be made out.

8. As regards the applicant continuing in the employment of the said company and even being given an increment, that does not necessarily show that he has a *prima facie* case in his favour. This Court is also not impressed with the contention that the FIR is the result of the personal rivalry between the informant and the applicant, both of whom are employees of the same company. No case is made out for granting anticipatory bail. The application is dismissed.

(MANISH PITALE, J.)

Minal Parab