IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.136 OF 2024

Amar s/o Prabhunarayan Singh
Vs.
State of Maharashtra, Through Police Station Officer, Police Station, Tiroda, District Gondia

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

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Mr. A. S. Manohar, Advocate for applicant.
Mr. S. C. Joshi, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 06/03/2024

1. Apprehending the arrest at the hands of Police in connection with Crime No.308/2023 registered with Police Station, Tiroda, District Gondia for the offences punishable under Sections 403, 420, 465, 468, 471 and 472 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. The applicant is apprehending arrest at the hands of police as the informant, who is the President of the Pandav Cooperative Vipnan and Bhatgirni, Navezari, has lodged the report alleging that the said cooperative institution has an active bank account at Gondia District Central Cooperative Bank, Navezari. The bank has also provided the cheque book facility to the Society and all the financial transactions are done through that cheque book under his surveillance. On 06.05.2023, the Manager of the said Society Mr. Namdev Meshram, who maintained

the cash book of the Cooperative Society informed the President i.e. the informant that the transaction of Rs.3,60,000/- has been recorded on 12.04.2023 through the said bank, for which he has no knowledge. Thereafter, the said enquiry was conducted and it revealed that one Sachin Waze has misappropriated the said amount. On the basis of said report, the police have registered the crime against the said Sachin Waze. During the investigation, it revealed that the present applicant is also involved in the said crime as he has prepared the seal of the Institution i.e. Pandav Cooperative Vipnan and Bhatgirni, Navezari, and used the said seal on the said cheque to withdraw the amount and the applicant is one of the beneficiaries of the said amount. The applicant has filed earlier Bail Application for grant of anticipatory bail bearing No. 459/2023 which is rejected.

3. Learned Counsel Mr. Atharva Manohar for the applicant submitted that as far as the withdrawal of the amount is concerned, the said amount is already deposited by the present applicant. The seal which alleged to be forged is also seized by the investigating agency. The applicant who alleged to be beneficiary has already repaid the amount therefore, the contention regarding misappropriation is not in existence. He submitted that the custodial interrogation of the present applicant is not required. As far as the identification part is concerned, the applicant will remain present as and when required

for the purpose of identification. He further submitted that now investigation is practically completed. The incarceration of the present applicant is not required and therefore, he be released on anticipatory bail in the event of his arrest.

4. Learned APP strongly opposed the application and submitted that during the investigation, it revealed that the present applicant has not only withdrawn the amount, but he was involved in preparing the forged seal of the said Society and misused the said seal and obtained the benefit by withdrawing the said amount. Merely because the applicant has deposited the amount or repaid the amount is not sufficient. The Investigation as to ascertain from which place he has prepared the said seal is required to complete the chain of the circumstances. He further submitted that the identification parade of the present applicant from the witnesses is to be held and therefore, custodial interrogation is required. Learned APP further submitted that considering the allegation against the present applicant that he has prepared the seal of the Society is serious in nature. In view of that, application for grant of pre-arrest bail deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. Admittedly, the FIR is lodged against the unknown persons. During the

investigation, the involvement of the present applicant is revealed. The Investigating Officer has also collected the disputed cheques which are used for withdrawing the amount as well as the bank statements. The statements of the witnesses are also recorded from which it revealed that the present applicant has played a vital role in the commission of the crime and he was also involved in preparing the forged seal and also making the forged signatures. By making the forged signatures, he has withdrawn the said amount.

6. Considering the allegation against the present applicant that he has prepared the forged seal of the Institution and used the said seal as well as forged signatures for withdrawing the amount. The vital role of the present applicant is revealed. Admittedly, the parameters for grant of anticipatory bail and bail under Section 439 of Cr. P.C. are different. The custodial interrogation of the present applicant is required to ascertain from which place he has prepared the seal and his identification from the witnesses is also required and therefore, the application for anticipatory bail deserves to be rejected. Accordingly, I proceed to pass following order.

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)

Sarkate