2024:BHC-NAG:662

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

CRIMINAL APPLICATION (ABA) NO. 164/2023
Jagdish Janakilal Chandak Vs State of Maharashtra
WITH
CRIMINAL APPLICATION (ABA) NO. 174/2023
Purushottam Fakirchand Tawari Vs State of Maharashtra
WITH
CRIMINAL APPLICATION (ABA) NO. 183/2023
Purushottam Champalal Lakhotiya Vs State of Maharashtra
WITH
CRIMINAL APPLICATION (ABA) NO. 268/2023
Govindkumar Jagdish Chandak Vs State of Maharashtra
WITH
CRIMINAL APPLICATION (ABA) NO. 341/2023
Sunil Harichandra Bhamadre Vs State of Maharashtra
WITH
CRIMINAL APPLICATION (ABA) NO. 396/2023
Anis Khan Nazir Khan Vs State of Maharashtra

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

Mr. S.V. Sirpurkar, counsel for the applicants.
Mrs. Sneha Dhote, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 15/01/2024.

1. All these applications are filed by the applicants apprehending their arrest, in connection with Crime No. 63/2023 registered with the Police Station, Borkhedi, District Buldhana, for the offences punishable under Sections 420, 409, 465, 468 and 471 read with Section 34 of the Indian Penal Code, 1860.

2. The accusations against the applicants and other co-accused are on the basis of report lodged by the

informant by alleging that one Rathi, who is a Clerk of Urban Cooperative Credit Society Ltd., Buldhana has taken some amount from the account holders, but has not deposited the same in their accounts. He, in connivance with the co-accused, has misappropriated the said amount. The amount involved in the crime is of Rs. 1,37,00,000/-. The applicants are not the employee of the society, only their accounts are in the said society.

3. Mr. S.V.Sirpurkar, learned counsel for the applicant submitted that as far as the present applicants are concerned, only allegations against them is that some amounts are transferred to their accounts from the bank. Admittedly, the applicants are not the employee of the society. They are not concerned with the co-accused and they are not related to the transactions which are carried out by operating the accounts.

4. He further submitted that the allegations against the present applicants is also that the informant has paid some amount in cash, but except the bare words of the informant, there is no other material to connect the present applicants with the alleged offence. He submitted that by considering the recitals of the FIR, all applicants are protected by the Court by granting anticipatory bail to them. Now, investigation is already completed and charge-sheet is filed. The custodial interrogation of the present applicants is not required and therefore, the anticipatory

bail granted in favour of the present applicants deserves to be confirmed.

5. Per contra, learned APP submitted that from the investigation papers, it reveal that huge amount are transferred in the accounts of the present applicants. Moreover, the informant has also handed over some cash amount to the present applicants. The custodial interrogation of the present applicants is required, considering the huge amount of misappropriation of Rs.1,37,59,500/- is involved. The report is lodged after the flying squad has conducted a raid on the Kothali Branch on receiving the complaint.

6. She further submitted that the offence is in the nature of economic offence. The involvement of the present applicants is revealed from the statements of the witnesses. In view of that, all the applications deserves to be rejected.

7. After hearing the learned counsel for the applicants and learned APP for the State. On perusal of the investigation papers, it reveals that one Sunil Mohanlal Gandhi was serving as a Manager, and at the relevant time, during his tenure on 09/06/2021 to 09/06/2022, total misappropriation of Rs. 1,37,59,500/- was committed. The report is lodged after flying squad has conducted the raid on Kothali branch on receiving the complaint. It revealed to the flying squad that not only the amount was misappropriated, but the forged receipts were

also issued to the depositors. After initiation of the investigation, it revealed that co-accused was the key person who directed his subordinate employee to accept the amount in cash, and without taking the computerized entry, issued the forged receipt. The said entries are approved by the co-accused. It further revealed during the investigation that after going through the entries of transaction, it is found that, the investigating officer has seized the relevant register, and it revealed to him that the co-accused has not only approved the transaction, but he was actually involved in the misappropriation by directing the employees.

8. Admittedly, the present applicants are neither employees and nor have deposited any amount in their own account. It shows that the co-accused who is the Manager used the accounts of the present applicants to transfer the misappropriated amount in the said account. From the investigation papers, it nowhere reveals that the present applicants were aware that such and such amount is transferred in their account without the said accounts operated by them. In fact, the investigation papers show that it was bank officials who have used these accounts to transfer some amounts and by withdrawing the same from the other accounts, and depositing the amounts which were deposited by the customers.

9. Thus, the present applicants are not the persons who is deposited the said amount by accepting the

same from the customers. As far as the allegation regarding the allegation by the informant is concerned, that he has paid the some amount to the applicant namely Jagdish Janakilal Chandak. Except the bare words, there is nothing on record to show that, he has handed over the said amount to the said applicant. In fact, he has not narrated any details when the said amount was given to the applicant – Jagdish Janakilal Chandak to show the transaction between him and the present applicants.

10. The applicants have cooperated with the investigating agency after they are released on ad-interim anticipatory bail. The investigation is completed and charge-sheet is filed. Now, there is nothing on record to show that for what purpose, the investigating officer require the custody of the present applicants. Though the present applicants are the beneficiaries of the amount but from the investigation papers, it nowhere reveals what is the nexus between the co-accused and the present applicants. Moreover, some amount is transferred in their accounts by the bank transaction is not sufficient to show their connection in the conspiracy. Considering the investigation is completed and charge-sheet is filed, custodial interrogation of the applicants is not required. Hence, all the applications deserves to be allowed. Accordingly, I proceed to pass following order.

a) The applicant in criminal application **(ABA) Nos. 164/2023** – Jagdish Janakilal Chandak, criminal application **(ABA) No. 174/2023** – Purushottam Fakirchand Tawari, in criminal application **(ABA) No. 183/2023** – Purushottam Champalal Lakhotiya, in criminal application **(ABA) No. 268/2023** -Govindkumar Jagdish Chandak, in criminal application **(ABA) No. 341/2023**- Sunil Harichandra Bhamadre and in criminal application **(ABA) No.396/2023** -Anis Khan Nazir Khan, in connection with Crime No.63/2023 registered with Police Station, Borakhedi, District Buldhana, for the offence punishable under Sections, 409, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860, the applicants are released on anticipatory bail on executing P.R. bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.

b) The applicants shall attend the concerned Police Station as and when required for the investigation purpose.

c) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

d) The criminal applications are **disposed of.**

[**URMILA JOSHI-PHALKE, J.]**

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