



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

CRIMINAL APPLICATION (ABA) NO.189/2024

Harshal s/o Bhojraj Bawane

..VS..

State of Mah., thr.its PSO PS Saoner, District Nagpur

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

Court's or Judge's Order

Shri A.K.Bhangde, Counsel for the Applicant.
Shri H.R.Dhumale, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 23/04/2024

PRONOUNCED ON : 26/04/2024

1. Heard learned counsel Shri A.K.Bhangde for the applicant and learned Additional Public Prosecutor Shri H.R.Dhumale for the State.

2. Apprehending arrest at the hands of police in connection with Crime No.218/2024 registered with the non-applicant/police station for offences punishable under Sections 406, 408, 379, 228, 166, 120 read 34 of the Indian Penal Code and 3 of the Government Confidential Act, 10923, the applicant has approached this court for grant of anticipatory bail.

3. Rajashri Devanand Chimote, Assistant Superintendent, working on the establishment of Joint Civil Judge Junior Division at

Saoner, district, lodged a report with the police station. As per her report, Junior Clerk Shri P.L.Pawar had received a phone call from one Ahmed Karim Sheikh who informed him that employee of the court staff Junior Clerk Bawane approached him and shown file of his case. It revealed to the Superintendent that some pending files on record were missing. On 4.10.2023, Junior Clerk Shri P.L.Pawar immediately contacted the Presiding Officer during lunch time and informed the incident. The Presiding Officer asked him to search files. After search of files, Junior Clerk Shri P.L.Pawar could not trace files and, therefore, on 5.10.2023 he submitted a confidential report to the Presiding Officer informing two files were missing bearing SCC Nos.717/2022 and 281/2022. He contacted Ahmed Karim Sheikh and informed that these two files were missing and, therefore, he was prosecuted under the Negotiable Instruments Act. Said Ahmed Karim Sheikh was called and his statement was recorded. From his statement, it revealed that the applicant contacted him at his shop and shown him files. He did the same act for his wrongful gain. The said fact is also reported to the Principal District Judge at Nagpur. On 9.10.2023, all of a sudden, these two missing files were noticed near an entrance of the court. Again, this fact was informed to the Presiding Officer. The Presiding Officer recorded statement. A preliminary enquiry was conducted and

during preliminary enquiry, it revealed that the applicant has stolen the said files and shown the same to Ahmed Karim Sheikh for wrongful gain and, therefore, the First Information Report is lodged against the applicant.

4. It is submitted by learned counsel for the applicant that the applicant is made scapegoat in the alleged incident. In fact, the applicant was transferred to the District Court at Nagpur and, therefore, he is not concerned with the alleged offence. He further submitted that as far as custodial interrogation is concerned, the same is not required as both files are already traced. During investigation, nothing revealed to show that the applicant has stolen the said files. In fact, it was Junior Clerk Shri P.L.Pawar, against whom, initially also, an action was taken for his negligence. He lost files as he was incharge of the said files. As such, the applicant be protected by granting him pre-arrest bail. He submitted that on 1.12.2018, the applicant joined as Junior Clerk at Saoner. On 28.7.2022, the applicant is transferred to the Court of Civil Judge Senior Division at Saoner and he worked at Saoner from 1.12.2018 to 9.7.2023. On 10.7.2023, the applicant is transferred and posted on deputation at filing section of the District Court New Building at Nagpur. This fact is sufficient to show that the applicant is not

involved in the alleged offence. Moreover, alleged offences are not punishable with imprisonment more than seven years. Considering all above these facts, the applicant be granted protection by way of anticipatory bail.

5. Learned Additional Public Prosecutor for the State strongly opposed the application on ground that in pursuance of directions issued by the Principal District Judge, the crime is registered on the basis of report lodged by Assistant Superintendent working in the court of Joint Civil Judge Junior Division at Saoner. Along with the said report, an enquiry report of Joint Civil Judge Junior Division was annexed from which it revealed that on 4.10.2023 Junior Clerk Shri P.L.Pawar was contacted and informed that the applicant has stolen two files from the court. Junior Clerk Shri P.L.Pawar submitted a written report and, thereafter, the Presiding Officer at Saoner called persons and received information. Accordingly, report was submitted to the Principal District Judge. From the enquiry report, it revealed that it is the applicant who has stolen the said two files and shown to the accused therein. Accordingly, departmental action was taken against the applicant. Statements of witnesses recorded show that the applicant contacted two persons and shown them original files and asked economical

favour from them. Thus, *prima facie* case is made out against the applicant.

6. Having heard learned counsel for parties and perused record, the First Information Report shows that on the basis of statement Ahmed Karim Sheikh involvement of the applicant revealed. During preliminary enquiry, it further revealed that though the applicant is transferred from Saoner to Nagpur, he was witnessed at the premises of Saoner Court and contacted said Ahmed Karim Sheikh as well as one Ashwin Karokar. Statements of both these witnesses show that the applicant approached them and introduced himself and enquired them whether they want to settle their matters. Thus, these statements sufficiently show that the applicant obtained possession of the said files unauthorizedly for his economical gain. The enquiry report also shows that counsel of said Ashwin Karokar informed the court that one of court employees approached his client and asked him about settlement. The statement of said Karokar specifically states about involvement of the applicant. The report of Principal District Judge at Nagpur, who also perused the entire record, found *prima facie* substance in the complaint and initiated the departmental action against the applicant. Thus, from the record *prima facie* case is made out

against the applicant.

7. Learned counsel for the applicant placed reliance on Criminal Writ Petition No.448/2019 (**Jairaj Namdeorao Bhimte and ors vs. State of Mah., thr.its PSO, Sadar, Nagpur**) decided on 21.9.2021 wherein this court dealt with issue as to quashing of directions to register First Information Report. Facts of the cited decision show that it was case of no evidence, but trial court has not considered the same and directed to register First Information Report.

8. In the instant case, statements of witnesses and litigants, whom the applicant approached, and preliminary enquiry report sufficiently show involvement of the applicant in the alleged offence.

9. While considering applications for grant of anticipatory bail, court has to consider nature of offences, role of persons, likelihood of their influencing, the course of investigation or tampering with evidence, and likelihood of fleeing justice. Nature and gravity of offences and role attributed to applicant are relevant considerations while considering whether to grant or refuse anticipatory bail.

10. In the light of facts of the present case, which are relating to integrity of the staff, the applicant is serving in the court where several litigants are approaching for getting justice. The society is having an utmost faith in the judicial system. In the light of the above faith, integrity and discipline from the court staff are expected. The integrity and honesty are essence of organizations like courts. The discipline is absolutely imperative and no compromise can be made as far as integrity of employees is concerned. Looking to the nature of services, which the applicant was rendering, sense of integrity, commitment, and discipline are paramount. It is the duty of the applicant to safeguard interests of the public who are approaching the court for justice. The act of the applicant is against interests of litigants and serious in nature and, therefore, considering the seriousness of allegations, no protection can be granted to him.

11. In this view of the matter, the application deserves to be rejected and the same is **rejected**.

The application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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