



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

CRIMINAL APPLICATION (ABA) NO. 337 OF 2023

Sachin Radheshyam Bisen

Vs.

State of Maharashtra, Through Police Station Officer Police Station
Goregaon District Gondia

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

Court's or Judge's orders

Mr. D. V. Mahajan, Advocate for applicant.

Mr. A. B. Badar, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13 /03/2024

1. Apprehending the arrest at the hands of police in connection with Crime No.75/2023 registered with Police Station Goregaon, District Gondia, for the offences punishable under Sections 406, 409 and 420 read with Section 34 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2 The applicant is apprehending arrest as the crime was registered on the basis of report lodged by one- Manoj Vijaykumar Vajpayee on an allegation that the applicant along with other co-accused have misappropriated the paddy amount to the tune of Rs.3.00 Crores approximately. The applicant is a Grader. The co-accused are the President and Director of Krushi Vikas Sheti Sadhan Samugri Purawatha Bahuuddeshiya Sahakari Maryadit

Chichgaon. As per the allegation, the society through the President has entered into an agreement with the District Marketing Officer of the Maharashtra State Co-operative Marketing Federation Limited, Mumbai for collecting the paddy from the farmers in the Season of 2021-2022. The Director and the President were supposed to collect the paddy and store the same in the Godown. The paddy was then transported to the Rice Millers as per the directions given by the Federation. Accordingly, the society has collected 65742.80 quintals from the farmers and allegedly sent only 49194.69 quintals paddy to the concerned Rice Millers. Thus, the society has committed the misappropriation of 16548.11 quintals of paddy worth of Rs.3,21,03,333/-. The allegations against the present applicant is that being a Grader he has to maintain the stock, and thus his involvement reveals from the investigation.

3. Learned Counsel Mr. Mahajan, for the applicant submitted that as far as the stock is concerned, it is maintained by the present applicant. He placed on record the inspection report which shows that the said stock was found in the Godown. The said inspections are carried out on various dates i.e. on 03.03.2021 and 21.03.2021. He further submitted that the co-accused – President and the Secretary are already released on bail. As far as the present applicant is concerned, his custodial interrogation is not required. The investigation is

practically completed. In view of that, the interim protection granted to the present applicant deserves to be confirmed.

4. Learned APP strongly opposed the application on the ground that the custodial interrogation of the present applicant is required. He submitted that the Investigating Officer requires the custody of the present applicant to ascertain the facts regarding the misappropriation of the amount and therefore, the application deserves to be rejected.

5. Having heard the learned Counsel for the applicant and learned APP for the State, perused the investigation papers. From the investigation papers, it reveals that from time to time, the inspection of the Godown was carried out by the concerned officers and they have not noted any irregularity or illegality during their inspection of the Godown. The Investigating Officer has also recorded the statements of various agriculturists which state that in the absence of the present applicant, the President used to accept the stock from the agriculturists. The statement of the agriculturists also shows that whatever the paddy was purchased by the present applicant as a Grader and the in-charge of the said Godwon, they have received the amount towards the same. The investigating agency could not point out for what purpose the custodial interrogation of the present applicant is required. Recently the Hon'ble

Apex Court in the **Special Leave Petition (Cri.) 9949/2023 Ashok Kumar Vs. State of Union Territory Chandigarh dated 1st March 2024** it is held that there is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than *prima facie* why the custodial interrogation of the accused is required for the purpose of investigation.

6. Herein in the present case, neither the learned APP nor the Investigating Officer could point out for what purpose the custodial interrogation of the present applicant is required. There is no *prima facie* material placed before the Court to show assigning the reasons why the custodial interrogation of the present applicant is required. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Sachin Radheshyam Bisen** be released on anticipatory bail in the event of his arrest in connection with Crime No.75/2023 registered with Police Station Goregaon, District Gondia, for the offences punishable under Sections 406, 409 and 420 read with Section 34 of the Indian Penal Code, on executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety of like amount.

(iii) The applicant shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the Investigating Agency.

(iv) The applicant shall at the time of execution of bond and furnishing the surety, shall furnish his address, telephone numbers to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted to the facts of the case.

(vi) In case of breach of any condition, the bail granted to the present applicant deserves to be cancelled.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)