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

CRIMINAL APPLICATION (ABA) NO. 568 OF 2024

Raghuvir s/o Padmakar Paithankar **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.P. Deshpande, counsel a/w Mr. V.S. Giramkar, counsel and Shri K.R. Jain, counsel for applicant.
Mr. D.V. Chauhan, Senior Counsel/Public Prosecutor with Mr. N.B. Jawade, APP for non-applicant/State.
Mr. S.B. Tiwari, counsel for Assist to Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 18/09/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No. 130 of 2024 registered with Bajaj Nagar Police Station, Nagpur, for the offence punishable under Sections 406, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. The applicant is apprehending the arrest at the hands of police as the crime is registered on the basis of a report lodged by Pukraj Govardhan Mandan on an allegation that M/s Sirsikar Builders and Developers Private Limited had obtained the loan of Rs. 5 Crore from the Yavatmal Urban Cooperative Bank Limited, Yavatmal, through its Deonagar Branch. The informant entered into an agreement for the purchase of one shop from the said project for a total consideration of Rs. 20 lakh, out of which the complainant paid to the said builder Rs. 5 lakh, and for balance Rs. 15 lakh,

he obtained the loan from the Indian Overseas Bank, which was disbursed with two demand drafts of Rs. 7.5 lakh each payable in the loan account of said builder. However, instead of depositing in the loan account, the same amount came to be deposited in the current account of the said builder. It is alleged that the several builders have deposited the amounts in the bank, but intentionally, inconnivance of the bank officers, the said amounts were deposited in the current account instead of the loan account to cause the loss to the bank. It is further alleged that the present applicant is an employee of the bank working as a passing officer who has accepted the said bank instruments and deposited them in the current account instead of the loan account and thus involved in the crime.

3. Learned counsel for the applicant submitted that as far as the allegation against the present applicant is concerned, it is only to the extent that he has accepted the said bank instruments and deposited in the said current account. Whatever he has done, he has acted on the instructions of the co-accused who was the branch manager. He submitted that, as soon as it revealed to him that the wrong action was committed by the branch manager, he immediately informed the superior and thereafter the amount was freezed. Thus, there is no wrongful intention on the part of the present applicant, and he has not gained anything wrongfully. It is further submitted by him that, during the pendency of the application before the trial court and before this court also when he was on ad-interim bail, he has cooperated with the investigating agency.

4. He submitted that, as far as the applicant is concerned, who was made a scapegoat by the branch manager, and therefore, his involvement is shown by the investigating agency. He submitted that, as far as custodial interrogation is concerned, which is not required as entire documents are already in the possession of the investigating officer. Thus, considering the same, he be protected by granting anticipatory bail.

5. On the other hand, learned Public Prosecutor strongly opposed the said application on the ground that, it is not on a single occasion the amount was accepted in the current account, but he placed on record various slips along with cheques and the various demand drafts, which shows that from 2014 to 2017, several cheques were deposited by several builders, and on several occasions, the cheques were deposited in the current account in stead of the loan account. He submitted that a mistake can be committed once but not repeatedly. The repeated act of the present applicant and other co-accused sufficiently shows their intention. Thus, he submitted that the investigation is at the initial stage, and if the investigation papers are shown, the statements of various witnesses are recorded, as well as the account extracts are also collected, which show that the amount was freezed for two days, and again it was opened, and thereafter, the other co-accused was permitted to withdraw the said amount and therefore, of course, the wrongful loss is caused to the bank. Considering the investigation is at an initial stage and merely because custodial interrogation is not required is not sufficient

to protect the present applicant, in view of that, the application deserves to be rejected.

6. After hearing the learned counsel for the applicant and learned Public Prosecutor for the State, perused the recitals of the FIR as well as all the investigation papers, from which it reveals that the statement of the present applicant was also recorded, wherein he has specifically stated that the transaction he entered into the current account on the say of the co-accused, who was serving as a branch manager. It is further submitted that as soon as it reveals to him that the wrong entries are taken, he immediately inform his superior, and the amount was freezed. It further reveals that, at the relevant time, the present applicant was serving as a passing officer, who accepted the said instruments in the current account instead of the loan account.

As far as the submission of the learned counsel that it was a mistake on the part of the present applicant, it cannot be accepted as it is not that, on one or two occasions that entries are wrongly taken, but the repeated transactions that are entered. During the investigation, the documents are collected by the investigating officer show that from 2015 to 2017 on various occasions these entries are taken. Even accepting the submission that he acted on the say of the manager, that aspect itself is not sufficient to exonerate him from his liability. As far as the criminal offence is concerned, whether there was an intention or not, is a matter of evidence. At this stage, the prima facie case sufficiently shows that he has played some role in the said transactions, and while considering the anticipatory bail application, the involvement of the present applicant in the economic offence cannot be ignored.

7. Considering the transaction and the involvement of the present applicant in the economic offence, prima-facie role which is disclosed from the investigation papers. The consideration for the grant of anticipatory bail is that the gravity and the severity of the offence needs to be looked into as well as the need for the custodial interrogation is also one of the aspects. Merely because the applicant is saying that his custodial interrogation is not required, is not sufficient to protect him by granting anticipatory bail as it is one of the consideration. Moreover, the involvement of the present applicant in the economic offence, and the amount of the builders, which was deposited against the loan accounts were at stake.

8. Thus, in view of the above facts and circumstances, this is not a fit case for the grant of anticipatory bail. Accordingly, I proceed to pass the following order.

The criminal application is **rejected.**

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