2024:BHC-NAG:10557

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

CRIMINAL APPLICATION (ABA) NO. 570 OF 2024

Dyaneshwar s/o Mahadeo Meshram **Vs** State of Maharashtra

WITH
CRIMINAL APPLICATION (ABA) NO. 578 OF 2024

Vandana wd/o Raju Sirsikar **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. V.S. Giramkar, counsel for applicant (ABA No. 570/2024)
Mr. Atul Pande, counsel for applicant (ABA No. 578/2024)
Mr. S.B. Tiwari, counsel for Assist to Prosecution (in Both the applications)
Mr. D.V. Chauhan, Senior Counsel/Public Prosecutor with Mr. N.B. Jawade, APP for non-applicant/State.

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 at Bajaj Nagar Police Station, Nagpur for the offence punishable under Sections 406, 409, 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, the applicants namely Dyaneshwar s/o Mahadeo Meshram and Vandana wd/o Raju Sirsikar have approached this Court for grant of pre-arrest bail.

2. The applicants are 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 Pvt. 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 total consideration of Rs. 20 lakh, out of which the complainant paid to the said builder of Rs. 5 lakh, and for the 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 the said amount in the loan account, the same amount came to be deposited in the current account of the said builder. It is alleged that the bank has agreed to the said fact of deposit vide its letter dated 11th January, 2024. It is further alleged that the present applicant - Dyaneshwar s/o Mahadeo Meshram, is the employee of the bank, whereas the applicant, Vandana Sirsikar, is the Director of M/s Sirsikar Builders and Developers Private Limited, who have accepted the loan amount deposited in the current account instead of the loan account and thus involved in the crime.

3. Heard learned counsel for both the applicants. Learned counsels for the applicants submitted that as far as the applicant- Dyaneshwar Meshram is concerned, who was serving as a clerk in Yavatmal Cooperative Bank Limited, the only role attributed to him is that he has accepted the cheque, though it was mentioned on it as a current account instead of the loan account. He submitted that the entire documents are with the bank, as far as the custodial interrogation of the applicant is concerned, which is not

required. During the pendency of the application, he was also protected by granting ad-interim protection, and he cooperated with the investigating agency. As far as the direct involvement is concerned, nothing appears from the investigation papers to show that there was an intention to cause any loss to the bank, and therefore, he has accepted the said cheque. It is submitted that he was the only receiver of the said cheques or the instrument, and he has accepted the same and forwarded it.

4. Learned counsel for the applicant - Vandana Sirsikar submitted that her husband was the director of the said M/s Sirsikar Builders and Developers Private Limited, and she was a nominal director. As far as the loan obtained for the said project is concerned, it was not obtained by her. It was obtained by her husband, who obtained the said loan and was looking after the day-to-day transaction. As far as the applicant - Vandana is concerned, absolutely there is no role played by her in the said transaction. In view of that, she be protected by granting anticipatory bail.

5. Learned Public Prosecutor strongly opposed the said application and submitted that the name of the applicant - Vandana Sirsikar is appearing on the loan application form, and she was participating in day-to-day activities, and therefore, her role is prime. He further invited my attention towards the documents, i.e., various cheques and instruments deposited against the said transaction, which shows that it is not a single occasion that amount was taken

mistakenly in the current account, but repeatedly these amounts were taken in the current account, which shows the intention. Thus, in view of that, the application deserves to be rejected.

6. After hearing the learned counsel for the applicant and the learned Public Prosecutor for the non-applicant/ State, perused the entire investigation papers and various statements recorded during the investigation, from which it reveals that as far as applicant – Vandana Sirsikar is concerned, being she is the wife of another director, and another director is not alive therefore, she is arraigned as an accused in the said crime. As far as her direct role is concerned, from the investigation papers nothing reveals to show that she has played a vital role in the entire transaction. Merely because she is the wife of the another director, who was looking after the entire transaction, and being the director of the said company, she appears to be arraigned as an accused. From the investigation papers, nowhere it reveals that she was looking after the day-to-day affairs of the said company, and she was aware of all the facts and the transactions. Thus, considering the role of both the applicants, admittedly, no prima-facie case is made out against them, and therefore, the applications of both these applicants deserve to be allowed by confirming ad-interim protection granted in their favour. In view of that, I proceed to pass the following order;

ORDER

a. In the event of arrest, the applicants – **Dyaneshwar S/o Mahadeao Meshram and Vandana wd/o Raju Sirsikar**, in connection with Crime No. 130 of 2024 registered on 28th May, 2024 at the hands of the 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, the applicants shall be released on anticipatory bail on executing a P.R. Bond in the sum of Rs.25,000/- each with one solvent surety, in the like amount.

b. The applicants shall attend the concerned police station once in a week i.e. on every Monday between 06.00 p.m. to 08.00 p.m. and shall cooperate with the investigating agency

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

The criminal applications are **disposed of.**

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

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