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

CRIMINAL APPLICATION (ABA) NO.777 OF 2024
Shantaram Mitharam Sapkal
..vs..
The State of Maharashtra, thr.PSO PS (Gramin), Akot, Taluka Akot, District Akola

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

Shri Rohan Deo, Counsel for the Applicant.
Mrs.Kavita Bhondge, Additional Public Prosecutor for the NA/State.

CORAM : URMILA JOSHI-PHALKE, J.
CLOSED ON : 11/12/2024
PRONOUNCED ON : 14/12/2024

1. By this application under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023, the applicant seeks pre-arrest bail in connection with Crime No.389/2024 registered with the non-applicant/police station for offences punishable under Sections 406, 468, and 477-A read with 34 of the Indian Penal Code, 1866.

2. One Devidas Ramchandra Nikam (complainant), who was former employee of “Akot Taluka Soot Girni Maryadit, Akot” (Society) filed an application under Section 156(3) of the Code of Criminal Procedure seeking a direction

to refer an offence against the applicant and other co-accused on allegations that the applicant and other co-accused have committed misappropriation by not depositing the amounts in the accounts of the labourers though it was deducted from their salaries. It was further alleged that the applicant and other co-accused also committed misappropriation by dealing with the properties of the "Soot Girni" and thereby misappropriated amount Rs.63,42,184/-. On the basis of the said report, the police registered the crime.

3. Heard learned counsel Shri Rohan Dev for the applicant and learned Additional Public Prosecutor Mrs.Kavita Bhondge for the State.

4. Learned counsel for the applicant submitted that the applicant had served as a "Cashier" from 31.3.2010 to 31.3.2014. The record shows that pursuant to steps taken by Secured Creditor - The Maharashtra State Cooperative Bank Limited, Mumbai under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest, 2002, assets and properties of the Society were seized. The concerned

mortgaged properties were in custody of the Secured Creditor from 12.4.2004 to 9.9.2022. The assets were eventually sold to Proprietor of Cotton Traders Radha Mantri. Prior to this, the Society went into liquidation and an Administrator was appointed in the year 2002 to manage affairs of the Society. The applicant was not concerned either to the act of deduction of the amount or depositing the same.

5. As far as other allegations are concerned, the subsequent Audit Report exonerates the applicant by observing that amount of Rs.3,11,117/- was due from the “Soot Girni” to the applicant and he has taken the advance only of Rs.13,490/- and directed to make the correction in the earlier Audit Report. This itself is sufficient to show that the involvement of the applicant is doubtful in the alleged offence.

6. *Per contra*, learned Additional Public Prosecutor for the State strongly opposed the application on the ground that during investigation, the investigating officer collected Audit Reports and the applicant was actually involved in the transaction leading to the misappropriation. Considering

the involvement of the applicant, the application deserves to be rejected.

7. After hearing both the sides and perusing of the investigation papers, as far as the allegation as to the dealing with the property is concerned, it reveals that Secured Creditor - The Maharashtra State Cooperative Bank Limited had already taken the possession of secured movable and immovable property of Akot Taluka Sahakari Soot Girni Limited on 11.7.2007. An Administrator was already appointed. This allegation as to misappropriation of the amount by dealing with the properties appears to be doubtful. In the first Audit Report, the involvement of the applicant was shown by observing that there were two vouchers in the salary account of the applicant, but entry of only one voucher was taken in the Ledger Book.

Another objection was, the salary voucher of the applicant bears the signature of one Vilas Singh Thakur.

In the subsequent Audit Report also as to the properties, it is observed that the Secured Creditor has already taken the possession of all movable and immovable assets.

8. As to the other allegations, it reveals that the applicant has only withdrawn the advance amount from the amount which was due to him from the said “Soot Girni” and accordingly directions were given to correct earlier Audit Report.

9. As to the allegation, that the applicant has deducted the amount from the salary of various labourers and not deposited the same, is not substantiated by any material. There is no material to show that the said work was allotted to the applicant by any documents.

10. Considering the nature of the evidence collected by the investigating officer, the applicant has made out a case for grant of bail.

11. In view of that, the application deserves to be allowed by imposing certain conditions, as per order below:

ORDER

(1) The Criminal Application is **allowed**.

(2) The applicant shall be released on bail, in the event of his arrest, in connection with Crime No.389/2024 registered with the non-applicant/

police station for offences punishable under Sections 406, 468, and 477-A read with 34 of the Indian Penal Code, 1866, on he executing a P.R.Bond of Rs.25,000/- with one solvent surety of the like amount.

(3) The applicant shall attend the police station once a week i.e. Monday between 10:00 am and 1:00 pm and shall cooperate with the investigating agency, till filing of the chargesheet.

(4) The applicant shall not induce or threat or promise to any of witnesses connected with the crime in question and shall not tamper the prosecution evidence.

The application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!