

Order below Exh.01 in Cri.B.A.No.1238/2022

CNR No.MHNS010053162022

(Shrinath Shashikant Ahirwadkar vs. State)

The applicant has preferred this application for anticipatory bail praying therein that he may be released on bail in the event of arrest in connection with CR.No.I-275/2022 registered with Bhadrakali police station for the offence punishable under Sec.409, 420 r/w 34 of IPC, on the basis of FIR lodged by Aditya Radhesham Maliwal.

2. Bail application is filed on the ground that the applicant is innocent and has been falsely implicated in the case. That he is respected person in the society. That with intent to malign the reputation, he is falsely involved in the crime. That he was only servant based at Pune and no concern with economical affairs of the company. There is no allegation that he had accepted any money from complainant and others. FIR disclosed that money was paid in the bank account of company and the applicant had no concern with bank accounts of company. Custodial interrogation of applicant is not necessary. FIR is silent about role of the applicant. On the date of filing of FIR, the applicant was not in service with Eagle Electronics (I) Pvt. Ltd. The Hon'ble High Court Bombay has granted anticipatory bail to other accused. From 8th September to 17th September 2022, the applicant was on leave and since 16th September 2022, he was not in service. He is permanent resident of Pune having immovable property. He is only earning member in the family. He will not abscond. He is ready to co-operate with

investigating machinery. He will abide by condition that may be imposed on him. The offence is triable by JMFC. On these main grounds and others have prayed for bail.

3. Notice was issued to State. State appeared through Ld. APP Smt.Sulabha Sangle and filed say resisting for grant of application on the grounds that there is involvement of the accused in the crime. Since the year 2013, the applicant is working in the company and has knowledge about the transaction. He knows all the financial transaction. Interrogation is necessary whether applicant has purchased any property from misappropriated amount. Misappropriation amount is huge amount and there is prima facie involvement of applicant. Interrogation is necessary as to why Realme Telecome Cop. Ltd. Cancelled the transaction with Eagle Electronic India Pvt. Ltd. Investigation is to be done whether arrested accused has cheated at other places in Maharashtra State along with co-accused. On these main grounds and others have prayed for rejection of the bail application.

4. Heard Ld. Advocate Mr.Talekar for applicant. Perused bail application. Heard Ld. APP Smt.Sulabha Sangle. Perused police papers and say filed by Bhadrakali police station.

5. Ld.Adv. Mr.Talekar reiterated all the grounds mentioned in the bail application. He further submitted that the entire business of Eagle Electronic India Pvt. Ltd.is looked after and taken care by Anil Khemani and his family members. The applicant is merely an employee. He further submitted that after perusal of FIR, there is no

case of any false representation made by present applicant. The present applicant has not received any money in cash. The entire transaction, even if taken as it is, is civil in nature. This transaction with informant took place in the month of July 2022 and contract between Realme mobile company and Eagle Electronic India Pvt. Ltd. Was terminated in the month of September 2022.

6. Per contra Ld.APP Smt.Sulabha Sangle reiterated all the grounds mentioned in the say filed by Investigating officer.

7. The allegations in FIR are about the accused persons having committed criminal breach of trust and thereby misappropriating huge amount of Rs.4, 06,08,218/- by accepting the same from area distributors and thereafter, not providing the goods i.e. mobiles of Realme company.

8. That Anil Khemani, his wife and parents are directors of M/s. Eagle Electronic India Pvt. Ltd. Admittedly, the present applicant is the Manager, having his office at Pune. M/s. Eagle Electronic India Pvt. Ltd. has entered into Zonal Distribution Agreement dated 1.3.2019 with Realme company (Oppo Mobiles India Pvt. Ltd.) till 1.3.2021, which was further extended till 31.8.2022.

9. The transaction between informant, other distributors and Eagle Electronic India Pvt. Ltd. took place, in the month of July 2022 and August 2022 when the Zonal distribution agreement dated 1st March, 2019 between Eagle Electronics India Pvt.Ltd.,

Realme company was existing and valid. According to FIR, some goods were received by the informant and some were not. The FIR does not specifically mention what was the quantity of mobile phones received by them from Realme company. The Realme company has revoked bank guarantee of Rs. 7 crores issued by Eagle Electronic Pvt.Ltd. in the month of September 2022.

10. The investigation papers will reveal that at all material time, it was Anil Khemani who was dealing with the area distributors and encouraging them to deposit money in the account of his company. FIR as well as the statement of witnesses i.e. other distributors do not reveal that present applicant at any point of time, has made representations to them or was in contact with them. So also, it is not the case of any distributors that some money in cash has been accepted by the present applicant. The record will show that the distributors have deposited their money in the account of Axis bank, bearing account No. 920020020217083 maintained by M/s. Eagle Electronics India Pvt. Ltd. So also, the Investigating officer has collected material which will show that it is Anil Khemani who handled this bank account. There is nothing to show that this amount which was collected in the month of July and August 2022, was forwarded to the present applicant.

11. After considering entire record, nothing is to be recovered or discovered at the instance of the present applicant. As far as the present applicant is concerned, the Investigating officer has not made out case of custodial interrogation. The interest of the Investigating officer of proper investigation, can be protected by

directing the present applicant to attend the concern police station. The applicant is not facing allegation that while on interim bail, he has not co-operated with Investigating machinery or has tampered with material on record. Rather, the correspondence issued by the Investigating Officer show that the applicant has attended the police station and he is directed by the Investigating officer to remain present as and when required. Hence, following order is passed :

ORDER

- (1). Application is allowed.
- (2). In the event of arrest of the applicant Shrinath Shashikant Ahirwadkar in connection with CR.No.I-275/2022 registered with Bhadrakali police station for the offence punishable under Sec.409, 420 r/w 34 of IPC, on the basis of FIR lodged by Aditya Radhesham Maliwal, the above named applicant be released on bail, on furnishing a PR and SB of Rs. 25,000/- with one or two sureties of like amount on following conditions.
 - (a). He shall attend concern Police Station on every Sunday between 11.00 a.m. to 1.00 p.m. till filing of the charge sheet.
 - (b) He will not leave India without prior permission of the Investigating Officer till filing of charge-sheet and thereafter, without the prior permission of the Court.
 - (c). He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade them from disclosing such facts to the Court or to any police officer.
 - (d). Violation of any of the above mentioned condition, would

result in cancellation of bail.

(3). Inform concerned police station accordingly.

(4). The Investigating Officer shall prefer application for cancellation of bail of present applicant, if, in future, any incriminating material requiring custodial interrogation, is found.

Nashik.

(V. P. Desai)

Date : 21.11.2022

Additional Sessions Judge,
Nashik.