IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.545 OF 2015

Niraj Kumar Bharadwaj ... Applicant

Vs.

The State of Maharashtra & anr. ... Respondents

with
ANTICIPATORY BAIL APPLICATION NO.666 OF 2015

Shri Bhanupratap Singh ... Applicant

Vs.

The State of Maharashtra & anr. ... Respondents

Ms.Warda Khan i/b Ms.Sharan Lindon Pinto for the Applicant in ABA/545/2015
Mr.Sandeep Maurya for Applicant in ABA/666/2015
Mr.D.P. Adsule, APP, for Respondent – State in both ABAs

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **26th & 29th JUNE, 2015**

P.C.:

1. These two applications are moved for pre-arrest bail as the applicants/accused are facing charges under section 420 of the Indian Penal Code and section 66(a)(c) of the Information Technology Act. It is the case of the prosecution that the complainant Mubbashir Abdul Hamid Mukadam gave information to the police on 27.12.2014 that he was in

need of money and wanted to raise nearly Rs.12 lacs. He was in search of some financial assistance. At that time, he received information from his friend that he could get loan from one Reliance Finance Limited after taking their insurance. So he contacted the said company and a person disclosed his name as Rahul Sharma from Delhi. When he told his need of Rs.12 lacs, he asked him that the would have to take a Reliance Finance Limited insurance policy and he would have to transfer money in a bank account number of ICICI bank. Believing this, he immediately demanded money Rs.35,000/- and thereafter Rs.45,000/- for clearing procedure by cheques, on 8.12.2014 and 11.12.2014. After some time, he received phone from Rahul Sharma from Delhi that instead of Rs.12 lacs, the company has taken a decision to give a loan of Rs.21 lacs. However, he would have to deposit an additional Rs.75,000/- in the bank. The complainant therefore suspected about the transaction. He did not receive the loan amount and he was duped for Rs.80,000/- on the pretext of giving him loan of Rs.12 lacs.

2. The learned Counsel for the applicants/accused submitted that the Reliance Finance Company Limited is a partnership firm and the applicants/accused are the partners. Rahul Sharma is in their employment. The learned Counsel submitted that wrong is done by Rahul Sharma. He talked with the complainant in respect of payment of Rs.80,000/- and further false promise of giving loan. The

applicants/accused have nothing to do with it. It is submitted that Rahul Sharma had independently dealt with the complainant and asked for money for which the applicants/accused are not to be held responsible. It is submitted that the names of the applicants/accused are not appearing anywhere in the FIR. It is further submitted that the applicants/accused have already deposited the amount of Rs.80,000/- before this Court.

3. Learned Prosecutor has opposed the application. He submitted that the police on verification of the address of this partnership firm and on receiving information from Delhi police in writing, found that the address of the partnership firm is bogus. Moreover, the deed of the partnership firm is only notarised and not a registered deed. He submitted that Rahul Sharma may be a fictitious person and the polices want to find out the other transactions in the account of partnership firm. In support of his submissions, he produced a statement of the account of the partnership firm. He submitted that there are a number of entries showing that amounts were deposited and withdrawn continuously. The police wants to find out from whom the amounts were deposited. He further submitted that as on today, the balance in the account is shown as zero. He further submitted that the police are investigating the matter and they need custody of the applicants/accused.

4. Perused the FIR and the police papers produced by the learned Prosecutor. If the address of the firm is bogus, then the submission of the prosecution that they need to go in depth about the working of the company, needs to be accepted. After going through the entries of credit and debit in the account of partnership, it appears prima facie, that custodial interrogation is required. Further, if any person by name Rahul Sharma is exists or not is also to be ascertained. Hence, it is not a case in which pre-arrest bail can be granted. Accordingly, both the applications are rejected.

5. The Investigating Officer is directed to place the photocopies of the demand draft on record before the trial Court. The trial Court may verify the same and allow the complainant to withdraw the money after ascertaining the identity of the complainant and on an undertaking or upon passing any other necessary order.

<u>29.6.2015</u>

6. Today, on Monday, this matter is taken on record for directions. Though these applications were rejected on 26.6.2015 by dictating the order and giving reasons in the open Court, it was pointed out on 26th June, 2015 at the end of the day by my Secretary that though this application is rejected, at the end, I have directed the accused persons to attend the concerned police station. Therefore, immediately in order to

rectify the said order as the condition of attendance is to be cancelled, as it was dictated in the open Court, the matter is fixed today for directions.

The learned Counsel for both the applicants/accused are present so also the learned Prosecutor. It is made clear to both the learned Counsel for the applicants/accused that inadvertently, after rejecting both the applications, the order of attendance was mentioned because after the entire order of rejection was passed, interim order dated 7.5.2015 was pointed out by the learned Counsel for the applicants/accused and thereafter in continuity, by mistake the order of attendance was dictated. The entire order which is typed by the Secretary is now read over today to the applicants/accused and the learned Prosecutor in the open Court. The learned Counsel for the applicant/accused in Anticipatory Bail Application No.545 of 2015 informs that she has communicated the order of attendance to her client and she would face embarrassment. Therefore, now this order is dictated in the open Court so that the learned Counsel shall not face any embarrassment as it is made clear that after rejecting both the applications, inadvertently the order of attendance was dictated by me in the open Court. The order of attendance therefore is withdrawn. It is specifically mentioned that the order is not signed by this Court till now and the same will be signed and uploaded by evening today.

(MRS.MRIDULA BHATKAR, J.)