IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1160 OF 2016

Robert Ogobomnya Williams ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Ashish B. Baraskar, advocate for Applicant.

Ms. Veera Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV, J
DATE : JANUARY 12, 2017

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 8/1/2016 in Crime No. 457 of 2015 registered at Juhu Police Station on 26/10/2015. The investigation is completed and charge-sheet is filed

under Section 419, 420 of the Indian Penal Code and under Section 66(c), 66(5) of the Information Technology Act.

3 The applicant happens to be the Nigerian citizen. The learned Counsel for the applicant submits that at the time of arrest, the applicant was in Jaipur jail, and was transferred in Crime No. 457 of 2015. Upon query made by the Court, learned Counsel for the applicant upon instructions submits that the applicant is in import export trade of garments. It is the case of the prosecution that on 26/10/2015 Pawan Kumar Saraf who happens to be the proprietor of Plastchem Industries lodged a report alleging therein that the firm has savings and current account in Vijaya Bank. On 20/10/2015 he had issued a cheque to some party. The bank had informed him that there is no balance. The first informant had learnt that on 20/10/2015 an amount of Rs. 50 Lakhs was transferred through RTGS to Praxis Developers India P Ltd. He soon realised that he has been cheated and lodged a report on the basis of which Crime

No. 457 of 2015 was registered at Juhu Police Station. In the course of investigation, the investigating agency had recorded the statement of Niraj Pavankumar Mishra, who happens to be the proprietor of Praxis Developers India P Ltd. was shown as the beneficiary of Rs. 50 Lakhs which was transferred from Vijaya Bank through RTGS. It was revealed in the said statement that Mr. Mishra had disclosed to the police that on 20/10/2015 his partner Anil Munjal had informed him that an amount of Rs. 50 Lakhs is deposited in their Axis Bank Account. Upon enquiry, he had disclosed that the present applicant had met him through a friend to whom he had passed on the account number and KYC details. That they had contacted Sumit. He had enquired with Sumit about KYC details of the applicant and it was revealed that he was out of station and therefore, the details could not be given. The investigating agency has also recorded statement of Amit Munjal who has specifically stated that he had met Nigerian person and to permit his business. He had shared his details with him.

4 The learned Counsel for the applicant submits that there is no recovery from the present applicant. There is nothing on record to indicate that he is the person who has hacked the bank account of Plastchem Industries and transferred the amount with Praxis Developers India P. Ltd.

5 The papers of the investigation would reveal that the investigating agency had arrested Hafeez Aziz Choudhari, Imran @ Sameer Ibrahim Kazi and others from whom, there was recovery of amount and cheques. They had also disclosed to the police about the involvement of the present applicant. Moreover, the applicant happens to be the citizen of Nigeria and there is no possibility that he would be available for the purpose of trial. The applicant is arrested in similar case in the State of Rajasthan and was in Jaipur Jail at the time when he was arrested in the present case.

6 Taking into consideration the role attributed to the present applicant, material collected by the investigating agency, there is sufficient material to show that the involvement of the present applicant. Hence, the application being sans merits stands rejected.

7 These observations are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered at the time of trial.

8 The application stands disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)