IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1481 OF 2017

MANISH NARAYANBHAI PATEL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Anand Pande, Advocate for the Applicant.

Mr.R.M.Pethe, APP for the Respondent – State.

Mr.Eknath Vishwanath Desai, Police Sub-Inspector, L.T.Marg Police Station, present in court.

CORAM : A. M. BADAR, J.

DATE : 6th OCTOBER 2017

P.C. :

1 The applicant / accused in Crime No.192 of 2017 for offences punishable under Sections 380, 465, 467, 469, 471 and 420 of the Indian Penal Code (IPC) registered with L.T.Marg Police Station, Mumbai, by this application is seeking pre-arrest bail.

2 Heard the learned advocate appearing for the applicant / accused. He placed reliance on the judgment in the matter of **Bhadresh Bipinbhai Sheth vs. State of Gujarat and Ors.**[1] to demonstrate that custodial interrogation of the present applicant / accused is not warranted, looking into the nature of allegations made against him, and therefore, he is entitled for anticipatory bail. The learned advocate argued that averments in the First Information Report (FIR) lodged on 31st July 2017 are primarily concerned with transaction which took place in or about June 2015. The First Informant averred that in the month of June 2015, amount from her bank account was siphoned in bank account of the present applicant / accused. There is delay of two years and this delay is not explained by the First Informant. The learned advocate further argued that for obtaining loan on Life Insurance Corporation (LIC) Policies, several forms are required to be filled in and several documents including original Aadhar Card, Pan Card are required to be furnished to the office of the LIC. Loan cannot be obtained without such documentation and such documentation is not possible unless and until the policy holder

1 MANU/SC/0949/2015

submits all documents and signs the requisite forms. This procedural precautions makes allegations against the present applicant / accused totally improbable. Investigation is not proceeding in the right direction and infact, the Investigator has to collect those documents and send them to handwriting expert in order to ascertain as to who has signed those documents. For this purpose, custodial interrogation of the present applicant / accused is not warranted. It is further argued that there is no investigation as to how monies went from the account of prosecution witnesses and the First Informant to the account of the present applicant / accused. The applicant / accused was, infact, managing family business and as there are disputes between him and his family members, and as he left the said business and started residing at Ahmedabad, this false FIR is lodged against him in order to implicate him in the offence. So far as allegations regarding shop block are concerned, the learned advocate pointed out unregistered lease deed and submitted that there was clause of renewal in the lease deed and the matter is governed by the Rent Act and subletting the premises does not amount to an offence.

3 The learned APP opposed the application with the aid of the case diary of the crime and pointed out bank statements as well as documents collected during the course of investigation and submitted that it is transpired in the investigation that a loan of more than 1 crore is obtained pledging LIC policies of First Informant Sharmila Patel as well as those of prosecution witnesses namely Anandiben Patel, Kunal Patel and Tarun Patel. This amount was then transferred to the bank account of the present applicant / accused by using internet banking. It is argued that as the applicant / accused was managing the entire family business and was in custody of all documents, he got the amount transferred in his own account. My attention is drawn to documents having forged signatures of prosecution witnesses and denial of prosecution witnesses to have signed those documents.

4 I have carefully considered rival submissions and also perused the material made available. The FIR of the crime in question is lodged on 31st July 2017 by Sharmila Patel – sister of the present applicant / accused. She averred in the FIR that after

death of husband of her maternal aunt Anandiben, she took over the business of Shivsagar Lodge. Subsequently, her brother Manish Patel – the present applicant / accused, took over that business by developing the trust of the First Informant as well as Anandiben. The FIR contains categorical averments that all documents of banks, LIC policies, other documents in respect of investment, were in the office, which was located at Shivsagar Lodge, and the applicant / accused was managing the affairs, as the prosecuting party had reposed trust on him. It is further averred that subsequently, the First Informant as well as her relatives Anandiben Patel, Kunal Patel and Tarun Patel came to know that by pledging their LIC policies with the Life Insurance Corporation of India, loan was obtained by forging their signatures and the amount of loan obtained from the LIC was then got transferred to the bank account of the present applicant / accused. It is further averred that there is joint account of the applicant / accused with his cousins and KYC documents of that joint account are also misused.

5 Perusal of papers of investigation shows extract of bank account of the applicant / accused. Perusal thereof shows that monies to the tune of about Rs.76,00,000/- came to be transferred to his account from bank accounts of the members of the prosecuting party. This prima facie corroborates the version of the First Informant. The learned APP submitted that this transfer is with the aid of internet banking and the same was effected by the present applicant / accused by taking advantage of the fact that passwords of the bank accounts as well as entire financial documents were in the office of Shivsagar Lodge which used to be managed by the present applicant / accused. My attention is also drawn to photocopies of documents in order to demonstrate that signatures of members of the prosecuting party are forged. When it is seen during the investigation that the amounts from bank accounts of members of the prosecuting party is transferred to the bank account of the present applicant / accused, and when the amount is more than Rs.76,00,000/-, in my considered opinion, custodial interrogation of the present applicant / accused is absolutely necessary to unearth the mode and manner in which

the crime in question has been committed. His custodial interrogation is warranted for effecting recovery and for further investigation of the crime in question for getting explanation in respect of several documents, which appear to have been collected during investigation.

6 This is an economic offence in which a member of a family has cheated several other members of the family. If in such cases, involving scam of huge magnitude, anticipatory bail is granted, then investigation will hamper and faith of public on the judiciary will be shaken. In this view of the matter, ruling in the matter of **Bhadresh (supra)** is not of any assistance to the applicant / accused. Hence the order :

ORDER

The application is rejected.

(A. M. BADAR, J.)