IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION (ABA) NO.679 OF 2017
(Karshanbhai S/o Bhikhabhai Kothiya..vs..State of Maharashtra, through Crime Branch, (Economic Offence Cell),Nagpur City,Nagpur)

Office Notes, Office Memoramda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Shri S.G.Karmarkar,Advocate for applicant.
Shri M.J.Khan, A.P.P. for State-non-applicant.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 26, 2017

Heard learned counsel for applicant and learned A.P.P.for State-non-applicant.

2] The learned counsel for the applicant has submitted that at no point of time the applicant has made any representation to the complainant. It is his further submissions that at no point of time the applicant visited the complainant. Applicant is permanent resident of Gujrat. He submitted that it is quite possible that his bank account is misused by his own wife she being real sister of one Sangita Janardhan Ramteke, the main accused in the present crime. He further submitted that the applicant has attended investigating officer as directed by this Court. He submitted that application be allowed.

3] The application is opposed by the learned A.P.P. for the State. It is submitted that though the applicant has attended the investigating officer the investigating could not be completed since the investigating officer was busy in His Excellency President police bandobast.

4] The F.I.R. is lodged by one Jaywant Balaji Sakhare, a civil engineer. He stood retired from Maharashtra State Electricity Board(now known as “MSEDCL). The complaint shows that he has not received any pension but he gets pension of Rs. 915/- per month from Employees Provident Fund. The complaint further disclosed that he was interested in collecting old and rare postal stamps and he has collected the same from Main Post Office at Mumbai. After retirement, he was in search to increase his income. According to the F.I.R. on 18/1/2017 he had been to Nagpur for making construction of his house. On 6/3/2017, he came across advertisement published by one Prizam Part in daily 'Lokmat' newspaper. In the said advertisement it was published that a person can earn Rs. 25,000/- to Rs. 30,000/- per day with working high profile girls,however for that registration is compulsory. Two cell phone numbers were also given. The F.I.R. further states that in view of the said he immediately made a cellphone call on the cellphone and it was disclosed by him that he is a retired engineer and he wish to develop friendships with American, French and Swiss girls and he wants to sell the rare postal stamps with him as the centres for sale of such stamps are situated at Newyork,Zurich and Jineva. There was no reply to the message sent by the complainant, therefore on 8/3/2017 he made another cellphone call on another phone. The said was received by one lady and that time that lady informed the complainant that firstly, the complainant has to made a registration and for that registration fee of Rs. 1500/- has to be paid. Upon that it was asked by the complainant where he should deposit that Rs. 1500/-. That time, he received a message on his cellphone that the amount has to be deposited in the bank account no.201510110011574 of Bank of India in the name of Karsanbhai B.Kothiya (the present applicant) . Accordingly, Rs. 1500/- were deposited in the said account. Thereafter, on time to time on different occasions for different reasons such as for making party, making a massage of that girl different amount was taken away from the complainant and all amount is deposited in the account of the present applicant. The F.I.R. also states that he has been cheated by the said advertisement and on different counts the amount is taken away from him and in fact that amount is deposited in the bank account of the present applicant.

5] The submission of the applicant that there is possibility that his bank account is being misused by his wife who is sister of main accused Sangita Janardhan Ramteke is his defence and this is not a stage the Court should consider the defence of the accused persons. It is not disputed by the applicant about the bank account number and it is also not disputed that the amount is received in his bank account. So therefore, merely because the applicant is resident of Gujrat that does not absolve him from the crime. Merely because, the applicant has attended the investigating officer cannot be a ground to grant anticipatory bail since the attendance was condition for granting interim bail till the reply is filed. After reply, it is clear that custodial presence of the present applicant is necessary.

Consequently, the application is dismissed.

The interim order dated 20/9/2017 stands vacated.

<u>JUDGE</u>

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