IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 558 OF 2018

Shubham Sunil Gupta ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Aabad Ponda a/w. Abid Mulani I/b. P.P.Patil for the Applicant.
Mr. N.B.Patil, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.
DATED : OCTOBER 06, 2018.

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid applicant apprehending his arrest in C.R.No. 13 of 2018 registered with Chandan Nagar Police Station for offences under Section 420 r/w. 34 IPC and Section 66D, 75 of the Information Technology Act.

2. Heard Mr. Ponda, the learned Counsel for the applicant and Shri Patil, the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The aforesaid crime was registered pursuant to the FIR lodged by Sagar Panamand, API attached to Cyber Crime Cell, Pune. The FIR prima facie reveals that the first informant had received information that one call center by name V Tech Solutions was being run by generating the Safari Browser (POPUP) on Apple Mobile and I-Pad . They were cheating the American citizens by saying that the devise is crashed and for that they used to compel the American citizens to Purchase Apple I Tune Card of Rs.100 Dollars.

4. The first informant and the other police staff visited the said call centre . Upon enquiry it was learnt that Aditya Kale and Rohit Mathur were partners of the said call centre. The Modus operandi adopted by said Aditya Kale, Rohit Mathur was that by taking the number of the I Tune Cards purchased by the American citizens, they used to send information to one Fatani, resident of Rajasthan. Said Fatani used to forward the said I tune numbers to the applicant and that the applicant would convert the said amount into Indian Currency after taking his commission. It is alleged that between July 2017 to December, 2017 that applicant had transferred an amount of Rs.5-6 lakhs in the bank account of V Tech Solutions and that he had

received Rs.50000/- to 60000/- as commission for the same.

5. The applicant herein is not the owner or partner of the call centre. Prima facie it appears that he was not directly involved with the activities of the said call centre. The role of the applicant was to convert the foreign currency into Indian Currency and to deposit the same in the account of V Tech Solutions by taking his commission. The material on record prima facie indicates that till December, 2017 the applicant had received Rs.50000/- to 60000/- towards commission for transferring the said cash. The learned Counsel for the applicant, upon instructions from the father of the applicant, who is present before the Court, submits that the applicant is ready to deposited an amount of Rs.60,000/- before the Court.

6. The records reveal that the applicant was granted interim bail by order dated 21st March, 2018, on condition to attend the police station for interrogation. The applicant has accordingly reported to the Investigating Officer and has already been interrogated. The learned APP at this stage, submits that possibility of the applicant being involved in similar crimes and having converted I Tune into Indian Currency in other cases cannot be ruled out. Needless to say

that the applicant cannot be declined bail on mere suspicion that there is possibility of his involvement in similar crime. It is always open to the Investigating Agency to investigate whether the applicant is involved in any other crime and to take appropriate action.

7. Considering all the above facts and circumstances and particularly the nature of the allegations against the applicant, in my considered view, this is not a case which would justify custodial interrogation. The applicant is 24 years old Engineering student who is pursuing higher studies. The applicant has no criminal antecedents. Rejecting bail can have far reaching adverse consequences on his life and career.

8. Considering all the above facts and circumstances, in my considered view, this is a fit case for grant of pre-arrest bail on the following terms and conditions:

(i) In the event of arrest of the applicant in Crime No.13 of 2018 registered with Chandan Nagar Police Station, the applicant be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount;

(ii) The applicant shall report to the Investigating Officer if required by the Investigating Officer for the purpose of investigation and interrogation.

(iii) The applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer.

(iv) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

(v) The applicant shall not interfere with the complainant and the other witnesses in any manner.

(vi) The applicant shall deposit the amount of Rs.60000/- in the Registry of this Court within four weeks from the date of this order.

Prasanna Pradeep Salgaonkar

Digitally signed by Prasanna Pradeep Salgaonkar
Date: 2018.10.11 11:12:32 +0530

(ANUJA PRABHUDESSAI, J.)