IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2263 OF 2017

Mr. Rajesh s/o Janardhan Budakhale .... Applicant
Vs.
The State of Maharashtra .... Respondent

Mr. Vaibhav V. Ugle for the Applicant.
Mr. Vinod Chate, APP for the State.

***Coram : Smt. Sadhana S. Jadhav,* J.**
Date : 10th January, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP. Perused the papers of investigation.

2 This is an application under Section 439 Code of Criminal Procedure. The applicant herein is arrested on 16th April 2017 in Crime No.76 of 2017, registered at Shivaji Nagar Police Station for the offences punishable under Section 420, 120B of Indian Penal Code and Sections 66(C) and 66(D) of the Information Technology Act. The investigation is completed and the charge-sheet is filed against the present applicant for the said offences. The applicant is original accused no. 15 in the said case.

3 It is the case of the prosecution that on 8th March, 2017, Niranjan Shripad Purohit officiating as Manager of Bank of Maharashtra, Branch Ferguson College Road, lodged a report at Shivaji Nagar Police Station, Pune alleging therein that in all 23 branches, it was revealed from 1st December 2016 to 18th January 2017, 50 consumers had made transactions to the tune of Rs.6,14,00,000/- through Unified Payment Interface (UPI) mobile application. The need has arisen for checking the accounts of all the consumers who had used UPI application. It was revealed that the said 50 persons had made transactions without therebeing any balance in their savings or current accounts in the Bank of Maharashtra. One of the person, who had received money through UPI was Sandip Mule.

4 In the course of investigation, the statement of Sandip Mule was recorded and he had disclosed to the police that his cousin Sachin wanted to sell his vehicle and therefore they had put an advertisement on O.L.X. On 15th December 2016, the present applicant and his two friends had approached him, inspected the vehicle and it was agreed that they would purchase the vehicle for an amount of Rs.3,40,000/-. The applicant had extended Rs.5,000/- towards advance and had assured him that rest of amount would be transferred through UPI. On 20th December 2016, the amount was

transferred through NEFT.. and had transferred Rs.2,01,000/- and 1,39,000/- respectively. The amount was transferred in the account of Sachin Singh. Said Sachin had also accompanied to the office at Aurangabad and the vehicle was transferred in the name of Rajendra Barde. In the course of investigation, it has also revealed that the applicant herein had transferred the amounts in the name of several persons namely Amol, Anil, Ankit, Dhanashree, Samadhan, Vithal, Prakash, Kiran, Madhukar, Ragini, Prakash, Anil and others, whose addresses are not traceable neither they are available on their cellphone numbers. The charge-sheet would indicate that the investigating agency has been able to recover an amount of Rs.1,36,72,662/- from the amount, which is misappropriated by the present applicant. He had used about 29 mobile devices for the said transactions. 5 mobile handsets are recovered. He had not co-operated in the course of investigation also.

5 There is more than sufficient material to indicate that the applicant is involved in the said offence and happens to be a mastermind of the said modus operandi. Learned APP vehemently submits that if need be, the investigating agency may undertake further investigation. As on today, the investigating officer is not present for giving instructions. However, the learned APP submits that the possibility that the investigating agency may apply for sanction under the provisions of MCOC Act cannot be ruled out. As

against this, the learned counsel for the applicant submits that the charge-sheet does not indicate that it was an organisation and as of today the charge-sheet is not filed under the provisions of MCOC Act. The applicant is innocent and he has no criminal antecedents. As against this, the learned APP has submitted that more than eight offences are registered against the applicant alongwith the co-accused in various districts of Maharashtra including Jalna, Aurangabad, Beed, Kolhapur, Palghar etc. Learned APP submits that two accused are still absconding.

6 Upon perusal of the records and hearing the submissions of the respective counsel, this court is of the opinion that this is a well calculated economic offence. It is not only the bank but several persons who are cheated by the fraudulent act of the present applicant and others. Hence, the application being sans-merits, stands rejected.

7 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and the learned trial Court shall not be influenced by the same at the time of trial.

(Smt. Sadhana S. Jadhav, J)