IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.276 OF 2019

Sultan Dulekhan Shaikh .... Applicant

versus

The State of Maharashtra .... Respondent

ALONGWITH
CRIMINAL APPLICATION NO.765 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.276 OF 2019

Museeb Rais ...Intervener

In the matter between

Sultan Dulekhan Shaikh .... Applicant

versus

The State of Maharashtra .... Respondent

- Mr. Abhishek R. Avachat, Advocate for Applicant in ABA No.276/19.
- Mr. Niranjan Mundargi I/b. Vinaya G. Padwal, Advocate for Intervener.
- Ms. S. S. Kaushik, APP for the State/Respondent.
- Mr. P. D. Devkate, PSI, Kondwa Police Station, Pune present.

CORAM : SARANG V. KOTWAL, J.
DATE : 10th JULY, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No.661/2018 registered at Kondwa Police Station under Section 420, 406, 465, 466, 468, 471, 474, 504, 506 r/w. 34 of IPC.

2. The FIR is a result of private complaint filed by the first informant. The Ld. JMFC, Pune had passed order under section 156(3) of Cr.P.C. Pursuant to which the FIR was lodged. The case of the first informant is that he was an authorised representative of M/s. Oyster Education Trust which was a registered charitable trust. Said trust was conducting various educational courses. The applicant was a founder member and one of the trustees of the New Era Education Society. It is the case of the first informant that the applicant and other accused represented to the first informant's office bearers that New Era Education Society is run by those accused. Believing their representation, Oyster Education Trust entered into memorandum of understanding dated 13/3/2014 purportedly with New Era Education Trust. Under the

said MOU, they accepted Rs.40 Lakhs. It was also decided that every year New Era Education Society would receive certain amount depending on the number of students enrolled for various education courses. The applicant and others, in all, obtained Rs.1,03,96,800/-. It is further case of the first informant that the property was to be given to informant's trust on lease for 33 years. According to the first informant that, it was the duty of the applicant and others to obtain various permission. However, that was not done. Oyster Trust demanded back this money but nothing was given to them. It was noticed by the first informant trust that though the MOU was executed, the accused had no authority to do so as other trustees of the New Era Education Society were kept in the dark. The amount which were paid by the informant, were siphoned off by the applicant for his own use. On these allegations, this FIR is lodged.

3. Heard Mr. Abhishek Avachat, Ld. Counsel for the applicant, Mr. Mundargi, Ld. Counsel for the Intervener and Ms. Kaushik, Ld. APP for the State.

4. Ld. Counsel for the applicant submitted that the applicant had full authority to enter into the MOU. Applicant was the founder member of the trust. The other trustees were very well aware of the transaction. According to him, other trustees in collusion with the complainant have lodged this false case.

5. Ld. APP pointed out that though the money was paid for the property of New Era Education Society, it was siphoned off by the applicant using account of Apex Institute of Management which was in control of the applicant. There was no resolution authorising the applicant or other accused to enter into such MOU and the intention to cheat was more than clear.

6. I have considered the submission made by the parties. Ld. Counsel for the applicant could not point out any resolution of the board of trustees of New Era Education Society authorising the applicant and other accused to enter into any such MOU with the informant's trust. There is no justification, neither any explanation is offered as to why amounts were siphoned off by the applicant

using account of M/s. Apex Institute of Management which was exclusively run by the applicant. Looking at the investigation carried out so far, it is clear that the applicant had intention to cheat not only the first informant but also his other members on the board of trustees. The applicant has caused heavy monetary loss to the informant's trust as well as to his own trust. In this view of the matter custodial interrogation of the applicant is necessary to trace the money misappropriated and to collect the evidence in respect of larger conspiracy. Hence, the application is rejected.

(SARANG V. KOTWAL, J.)