IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 737 OF 2020
(ABA/ST/2449/2020)

Deepakkumar Dulichand Jain .... Applicant
versus
State of Maharashtra .... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 740 OF 2020
(ABA/ST/2450/2020)

Hetul Rameshchandra Ranka .... Applicant
versus
State of Maharashtra .... Respondent

WITH
ANTICIPATORY BAIL APPLICATION (ST) NO. 2499 OF 2020

Ankit Deepak Jain .... Applicant
Versus
The State of Maharashtra .... Respondent

…....

- Mr.Vikas Sharma a/w Aditya Patankar, Advocate for Applicants.
- Ms.Pallavi N. Dabholkar, APP for the State/Respondent in ABA Nos.737/20 and ABA No.740/20.
- Mr.R.M. Pethe, APP for the State/Respondent in ABA No.2499/20.

CORAM : SARANG V. KOTWAL, J.
DATE : 04th NOVEMBER, 2020

Nesarikar

P.C. :

1. All these applications are decided by this common order because they arise out of the same offence registered at the same police station, pertaining to the same investigation.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.559 of 2020 registered with L.T. Marg Police Station, under sections 120-B, 406, 420 of the Indian Penal Code.

3. **Allegations in the FIR** -:

The FIR is lodged by one Ishwarlal Dayalal Bauva. In January 2019, he received a message from one M/s. A.J. Enterprises. It was mentioned in the message that if the informant made investment with them, he would get distributorship for sale of electronic products with possibility of commission upto 25%. The first informant consulted his son Dhawal Bauva. The informant's son went to the office of M/s. A.J. Enterprises at Goregaon. There the Applicant Ankit Jain gave him information about working of M/s. A.J. Enterprises. He was told about different warehouses. At that time, the Applicant Deepakkumar Dulichand Jain, who is Applicant Ankit's father and another Applicant Hetul Rameshchandra Ranka were present. Applicant Ankit introduced the Applicant Hetul as his partner. Ankit informed that his company was selling electronic products through recognized online suppliers on the internet. At that time, the Applicant Deepakkumar was introduced as a C.A. The Applicant Deepakkumar wished him luck for the business. informant's son Dhawal was impressed. The informant and his son Dhawal decided to invest their money in M/s A.J. Enterprises. In February and March 2019 the informant invested about Rs.41,50,000/-. The payment was made through cheques. Initially in the month of January 2019, the Applicant Ankit Jain sent some electronic spike guards, writing pens from M/s. Himalaya Spike Guard Company. Between 30/01/2019 to 27/03/2019 the informant's son was given 2001 spike guards of 4 x 4 socket, 1545 guards of 6 x 6 sockets, 1058 shine pens and 613 leaf pens. Out of that between February and April 2019, 1769 spike guards of 4 x 4 socket and 1419 spike guards of 6 x 6 socket, 846 shine pens, 610 leaf pens were taken back. The informant has the relevant documents in that behalf. After this, only some products were left with the informant. Till September 2019, the informant was given Rs.6,90,800/- by way of commission and thereafter all the payments were stopped. Some cheques were given to the informant, which were dishonoured.

4. In between March 2019 the Applicants Ankit and Hetul induced the informant to use credit cards for payment, for which the informant was to get 5% commission. In this scheme also the transactions were made by the informant. That money was not repaid and the outstanding amount along with interest mounted to the amount of Rs.12,55,283/-. Thus, the informant was cheated. His money was misappropriated and wrongful loss was caused to him. On this basis, the FIR is lodged.

5. **<u>Submissions of learned counsel for the Applicants</u>** -:

Learned counsel Mr.Vikas Sharma for the Applicants submitted that the Applicant Deepak has absolutely no role to play. Even as per the FIR, he was only present in the office of M/s. A.J. Enterprises. He was introduced by the Applicant Ankit Jain to the informant's son. The Applicant Deepak had only wished luck to the informant's son for their business prospects.

He submitted that it was a civil dispute. Applicant Hetul was an employee working with Ankit and he has no role to play. He submitted that an MOU was executed between the informant and the Applicant Ankit on 23/07/2019. The Applicant Hetul signed on that MOU only as a witness. He was not a party to the transaction.

As far as Applicant Ankit is concerned, learned counsel Mr.Sharma submitted that nature of the allegations against him are purely civil. There is no criminality attached in all the representations made by him. It was a business transaction, pure and simple. The Applicant Ankit wanted to market the products and through effective marketing he was to earn through perfectly legal business. He submitted that custodial interrogation of the Applicant is not necessary.

6. **Submissions of learned APP Ms.Pallavi N. Dabholkar and Mr.R.M. Pethe** -:

Learned APP submitted that the investigation reveals that the informant's daughter-in-law was paid money to the tune of Rs.1,00,000/- through account of Applicant Deepakkumar. This shows that even Applicant Deepakkumar was involved in the entire transaction. Ms.Dabholkar submitted that Hetul had given two cheques from his father's account in February 2019 for Rs.50,000/- and Rs.25,000/- respectively to the informant. This shows his involvement.

7. Mr.Pethe submitted that the Applicant Ankit's role is clearly shown in the FIR. The scheme was suspicious. The informant was deprived of his large amount. Custodial interrogation of the Applicant is therefore necessary.

8. **Reasoning** -:

I have considered these submissions. As far as the Applicant Deepakkumar is concerned, in the entire FIR there is hardly any role attributed to him. He was present in the office when the informant's son visited M/s. A.J. Enterprises. At that time, Applicant Deepakkumar had merely wished him luck. The transaction between Deepakkumar and daughter-in-law of the first informant is not reflected in the FIR. This does not seem to have any connection with the transaction between the informant and M/s. A.J. Enterprises. The Applicant Deepakkumar has not made any representation and has not promised any commission. Considering these facts, Applicant Deepakkumar deserves protection of anticipatory bail.

9. As far as the Applicant Hetul is concerned, though it is his claim that he was merely an employee and had nothing to do with the transaction, the FIR does specify that he had represented that the informant would get commission for using credit cards. Thus inducement was made by this Applicant also.

Significantly, this Applicant Hetul had issued two cheques amounting to Rs.75,000/- to the informant. If he was merely an employee, there was no reason why he would do that. This conduct shows involvement of this Applicant.

10. As far Applicant Ankit is concerned, the entire allegations are mainly directed against him. On every occasion, he had made representation inducing the informant to invest big amount in the Applicant's company. This had caused heavy loss to the informant. This was not a merely business transaction, but the informant was lured into investing this amount. The other scheme of using credit cards is also suspicious. Thus, from the allegations it does not appear to be a pure civil transaction. The victim has lost money. It is necessary to find out what happened to that money and how it was misappropriated. It is necessary to find out whether through this big scheme, other victims were also duped. Therefore custodial interrogation of the Applicants Hetul and Ankit is absolutely necessary. Therefore their applications cannot be allowed.

11. Hence, the following order :

ORDER

(i) The prayers made by Applicant Hetul Rameshchandra Ranka and Applicant Ankit Deepak Jain for anticipatory bail, are rejected. Hence Anticipatory Bail Application No.740 of 2020 and Anticipatory Bail Application (ST) No.2499 of 2020, are rejected.

(ii) In the event of his arrest in connection with C.R.No.559 of 2020 registered with L.T. Marg Police Station, the Applicant Deepakkumar Dulichand Jain is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Applications are disposed of.

(SARANG V. KOTWAL, J.)