IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1069 OF 2021

SAFDAR ALI MOHAMMED ABDULLAH
VERSUS
STATE OF MAHARASHTRA
...
Advocate for Applicant : Mr. Menchirel Suresh Nanappa And Shivani Jaiswal
APP for Respondents: Mr. A.V. Deshmukh.

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**CORAM : PRAKASH D. NAIK J.**

**DATE : 20TH OCTOBER, 2021.**

**PER COURT:**

1] This is an application for anticipatory bail in Crime No.184 of 2019, registered with MIDC CIDCO Police Station, Dist. Aurangabad for the offence punishable under Sections 406, 420, 120B, 34 of IPC and under Sections 3 and 4 of the MPID Act.

2] The FIR was registered on 3rd May, 2019.

3] The case of complainant is that he is the Manager of Vishwa Kalyan Multi State Cooperative Credit Society. He met accused Prashant Dhumal. It was represented by the accused that in the event of investment, the complainant would get good returns. The accused was conducting business in the name of Commodity Trade Arts. The complainant deposited an amount of Rs. 3,50,000/- on 15th March, 2014. Subsequently, he invested further amount and the total amount invested was to the tune of Rs. 7,00,000/-. The returns on investment were not paid to the complainant. Subsequently, he found that the office is closed. The cheque given to the complainant was dishonoured.

4] The applicant is proprietor of Kanakdhara Realties. It is alleged that he had purchased land at Sawangi bearing Gat No.131 on instructions of accused No.1. 17 plots were demarcated and some were sold to the investors. The layout of the plot was not sanctioned. The applicant had a deal of about 15 Crores with the accused No.1. Mercedes car was purchased by the applicant from the co-accused. He has acted in connivance with the accused No.1

5] The applicant preferred an application for anticipatory bail before the court of sessions which has been rejected by order dated 20.8.2021.

6] The learned counsel for the applicant has urged that the applicant has no connection with the alleged fraudulent acts committed by the accused No.1 and the other accused. The applicant had not been named in the FIR. He has no connection with the company of the accused i.e. Commodity Trade Arts (CTA for short). He is not on the Board of the said company nor involved in inducing any investor to deposit money. He has no connection with the day to day affairs of the said company. The applicant is in real estate business. Accused No.1 shown interest to buy property at Gat No. 131. The amount of Rs. 80 lakhs was transferred to applicant for purchase of the properties. As per the understanding, 17 sale deeds were executed and the properties were handed over to the clients of CTA. There was some dispute between the seller of the land bearing Gat No. 131/1/3 and, in particular, cheque was dishonoured for which proceeding under Section 138 of N.I. Act was initiated. As far as the allegation regarding purchase of the car is concerned, it is submitted that the loan was outstanding on the said car. The applicant was interested in taking over the loan from the prime accused. The applicant has not played any role in the transaction executed by the investor company with the accused No.1. The requisite documents are in possession of the I.O. Several other accused were granted anticipatory bail, which includes the wife and brother of the accused No.1. Custodial interrogation of the applicant is not necessary.

7] Learned APP submitted that the applicant had acted in connivance of the co-accused. Huge amount was collected by the accused No.1 and others from the investors. Accused No.1 had executed transaction of about 15 crores with the applicant . The amount collected from the investors was diverted to the applicant. About 80 Lakh rupees were transferred to the firm of the applicant by the accused No.1. The total amount transferred was to the tune of Rs. 87 Lakhs. The layout of the plots was not sanctioned. The applicant and the accused No.1 had executed “Isar Pavti/agreement” on the bond paper of Rs.100/-. The statements of several witnesses were recorded which shows complicity of the applicant. Crime No. 391 of 2019 is registered against the applicant with Pundlik Nagar Police Station, for the offence punishable under Sections 420, 467, 468, 471 of IPC. The case is pending in the court. Three other cases are also pending against the applicant. Hence, custodial interrogation of the applicant is necessary.

8] I have perused the FIR, the other documents annexed to this application and the investigation papers. It is not disputed that the applicant is not concerned with the company of the accused No.1 viz. Commodity Trade Arts. The complainant and others had allegedly invested in the company of the accused No.1. It is the case of prosecution that accused No.1 and other accused including the family members of the accused No.1 induced the investors to deposit the amount. The limited role which was attributed to the applicant is that accused No.1 had engaged the applicant for demarcating plots and selling them to the clients of accused No.1. It is pertinent to note that the applicant is in real estate business. He has not connection with CTA. Sale deeds were executed in favour of CTA company. Copies of the sale deeds are annexed to this application. Thus, admittedly, the applicant was not involved in inducing the investors to invest the amount in the company by making any false representation to them. It is relevant to note that several other persons than accused No.1 had applied for anticipatory bail and the said applications were allowed. Copies of the orders passed therein by the Sessions Court and this court are annexed to this application.

9] Co-accused Yogesh Dhumal (brother of Prashant Dhumal) and wife of Prashant Dhumal and other persons were granted anticipatory bail.

10] Considering the aforesaid factual aspects, the applicant cannot be subjected to custodial interrogation. Hence, the order.

: O R D E R:

[i] Anticipatory bail application is allowed.

[ii] In the event of arrest of the applicant in connection with Crime No. 184 of 2021, registered with Police Station MIDC CIDCO, Dist. Aurangabad, for the offences punishable under Sections 406, 420, 120B, 34 of IPC and under Sections 3 and 4 of the MPID Act, the

applicant be enlarged on bail on his furnishing PR Bond in the sum of Rs. 25,000/-, with one or two sureties in the like amount.

[iii] The applicant shall appear before the I.O. on 25th, 26th, 27th of October, 2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called by the I.O.

[iv] The application stands disposed of.

**[PRAKASH D. NAIK]**
**JUDGE**

grt/-