BDP-SPS-TAC

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 435 OF 2021

ROSHAN GARRY BHINDER ….Applicant.
V/s
THE STATE OF MAHARASHTRA …..Respondent

Mr. Satyaram R. Gaud for the Applicant.
Mr. Ashok Mishra a/w Viral Bhanushali i/b Solicis Lex for the Intervener
Mr. A. R. Kapadnis, APP for the Respondent/State.
API Vivek Khawale, Versova Police Station, present.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 26, 2021

P.C.:-

1] Applicant is seeking pre-arrest bail in C.R. No.26 of 2021 registered with Versova Police Station for the offence punishable under section 420 and 406 of the Indian Penal Code.

2] Prosecution case is, present Applicant alongwith other two co-producers decided to develop Web Series which was to be shown through the Channel and profit generated out of the same was to be shared in accordance with memorandum of co-producer agreement dated 21/6/2019. Applicant in the capacity of producer having

50% share, received an amount of Rs 37 lakhs by cheque from the complainant who was having 25% share each, which is alleged to have mismanaged. As such, offence in question.

3] Contentions are, relationship between the parties is fiduciary and based on the terms of agreement/memorandum dated 21st June, 2019. According to him, if business has suffered any losses, Applicant ought not to have been blamed for the same and that being so, Applicant is falsely implicated in the crime. It is further claimed that due to pandemic, only limited episodes of Web Series could be produced which has generated hardly any revenue and that being so partnership has suffered losses. It is also claimed that the Applicant is in possession of vouchers to justify the expenses.

4] While countering the aforesaid submissions, learned APP submits that the Applicant is prima facie involved in the crime can be inferred, as an amount of Rs 10 lakhs is withdrawn from the joint account by the Applicant through ATM and other amount of Rs 4 lakhs was diverted for which there is no reasonable justification. It is further claimed that there are statements of witnesses which show that

Applicant has not paid to the crew.

5] In the aforesaid backdrop, when confronted, there is no material made available by the Applicant while enjoying interim protection justifying the expenses either to this Court or to Investigating Officer. As such, the amount which was handedover to the Applicant in trust appears to have been misappropriated. Necessary ingredients of Sections 406 and 420 of the IPC can be inferred against the Applicant. Though it is claimed by the Applicant that he is in possession of vouchers, no such vouchers are produced before the Investigating Officer or before this Court. Application therefore deserves to be rejected and same is accordingly rejected.

(NITIN W. SAMBRE, J.)