IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.642 OF 2021

Hitesh Dineshbhai Bulde .... Applicant
versus
State of Maharashtra .... Respondent

…....

- Mr.Akhlak Abbas H. Khan, Advocate for Applicant.
- Mr.Ajay Patil, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 09th MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.12/2021 registered with Swargate Police Station, Pune, on 20/01/2021 under sections 420, 406 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by one Suraj Yadurao Suryawanshi. He was in the business of garments trading. His friend Nagnath Parkale was in the business of real estate. They wanted to expand their respective businesses. During the course of informant's business, he came in contact with one Jignesh and

through him with the present Applicant. The informant and the Applicant met in Natraj Hotel, Swargate, Pune, in the month of October. The Applicant represented to the informant that if he wanted loan of Rs.5 Crores, then the informant would have to give security in the form of property documents and cheques. The informant would have to pay Rs.25,000/- and his friend would also have to pay likewise, if he wanted loan. The Applicant further told the informant to download a mobile phone application by the name Zebpay and through that the informant and his friend would have to show purchase of 1-2 bitcoins. The informant and his friend Parkale paid Rs.25,000/- each to the Applicant through online payment by way of processing fee. The informant and his friend downloaded Zebpay application. After a few days, the Applicant contacted the informant and told him that transaction of one bitcoin was over. But the transaction for his friend Parkale was still incomplete as there was shortfall of money in his account. The informant was told by the Applicant to transfer some amount to Parkale's account, so that Parkale's bitcoin transaction would be completed. Based on this representation, the informant gave the OTP received on his mobile phone to the Applicant. Within a short time, the informant's entire amount of Rs.10,16,911/- on Zebpay account was transferred to Parkale's Zebpay account. The informant asked about it to the Applicant. The Applicant told him that there was some mistake and the balance amount after deducting the amount for Parkale, would be returned back. On this representation, the Applicant called Parkale, took OTP from him and his amount of Rs.7,34,351/- was also transferred. Thus in all Rs.17,51,262/- were transferred from the account of the informant and his friend Parkale at the instance of the present Applicant, after the Applicant had taken OTP from both of them. The amount was transferred to someone else's Zebpay account. The informant asked the Applicant about it. The Applicant assured that the transaction would be reversed and informant would get his money. But even after a few days the money was not returned. The Applicant went on giving false assurances. He started threatening and abusing. On this basis, the FIR is lodged.

3. Heard Mr.Akhlak Abbas H. Khan, learned counsel for the Applicant and Mr.Ajay Patil, learned APP for the State.

4. Learned counsel for the Applicant submitted that even as per the FIR, the amount has not gone in the account of the Applicant. The Applicant is not the beneficiary and therefore the allegations against him are unfounded. According to him, the Applicant's custody is not justified.

5. Learned APP opposed this application, based on the averments made in the FIR.

6. I have considered these submissions. The FIR clearly spells out the case against the present Applicant. The Applicant had taken OTP from the informant as well as from Parkale and had used that OTP to transfer their entire amount kept in Zebpay account. This was done without permission of the informant or of his friend Parkale. Both of them were kept in

dark. The amount was transferred to some unknown account. The Applicant is directly responsible and he has deliberately committed the offence. To find out money trail and the Applicant's involvement in the larger conspiracy, his custodial interrogation is necessary. No case for anticipatory bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)