IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.712 OF 2021

Hitesh Premji Gada Applicant
versus
The State of Maharashtra Respondent

Mr.A.D.Chaudhary for applicant.
Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 19th April 2021

PC :

1. The applicant is apprehending arrest in CR No.154 of 2019 registered with Azad Maidan Police Station for offences under Sections 420, 465, 467, 471 r/w 34 of Indian Penal Code.

2. The FIR was registered on 12th July 2019. The case of the complainant is that the applicant and the complainant were working in Divine Collection. Thereafter the applicant left job in 2014. He represented the complainant that they should work together. It was represented that he would start business of selling Chinese watches. They started business by floating a company and sold Chinese watches. At the request of applicant two bank accounts were opened in the name of complainant for conducting business. The accounts were opened with Indusind Bank and Axis Bank. Mobile number of the complainant was given. The amount collected during the course of business were credited into the said accounts. The complainant was withdrawing the amount and giving it to the accused. Thereafter complainant left the company. He told the accused to

close the bank accounts. Thereafter complainant did not receive messages from the banks about transactions being performed in the said accounts. The complainant received notice from Income Tax Department. Pursuant to that the complainant made inquiries with bank as the notice was relating to transactions executed in the said accounts. It was found that in the account with Indusind Bank, the mobile number of complainant was changed and there were transactions of lakhs of rupees in the said bank account. Thus, it is alleged that the account was operated by applicant by indulging in transactions of money as a result of which the complainant has received inquiry notice from Income Tax Department. The statement of complainant was recorded on 12th July 2018. The FIR was registered on 12th July 2019. The proforma of FIR indicate that police had received intimation on 24th January 2018 and FIR was registered on 12th July 2019. The period of offence is between May-2014 and 2016.

3. Learned counsel for applicant submitted that FIR is false. There is inordinate delay in registering the FIR. The transactions were held between the period May-2014 and 2016. The FIR was registered in 2019. The offence of cheating and forgery is not made out. No loss was caused to the complainant. The complainant was friend of applicant. He used to visit the shop of applicant. He was involved in commission of theft in the shop of applicant. The said fact is fortified by CCTV footage. The applicant did not initiate any complaint against complainant since he was his friend. Custodial interrogation of the applicant is not necessary. The applicant has co-operated with investigation. Nothing is to be recovered from the applicant.

4. Learned APP submitted that the applicant has utilized bank account of the complainant and executed several money transactions. Custodial interrogation of applicant is necessary to investigate into money transactions. The applicant has submitted documents to the bank for changing the mobile phone number of the complainant by replacing his mobile number as a result of which the complainant did not receive any messages in respect to transactions executed with the bank. Applicant is involved in forgery. One more offence was registered against applicant vide CR No.319 of 2019 in relation to Copy Rights Act for duplicating watches.

5. On perusal of the FIR it is apparent that the transactions were carried out between the period 2014 and 2016. The FIR was registered on 12th July 2019. It appears that complainant had forwarded complaints to various authorities. Advocate's notice was issued to applicant on 16th January 2018 at the instance of complainant. In the said notice it was stated that the complainant was appointed as Salesman in shop. The bank accounts were opened in his name. Thereafter the applicant forged the signature of complainant and changed the contact number. The applicant has used his account. The Income Tax Department had addressed a letter to the complainant stating that he has to file Income Tax return on huge turn over. Thereafter he came to know about the transactions conducted by the applicant. In view of that the applicant was called upon to pay income tax on the huge transactions made by him on the account of his client. The notice was replied by applicant. Thereafter notice u/s 160 of Cr.P.C was forwarded to applicant on 7th August 2018. The FIR was registered

on 12th July 2019. From the tenor of the FIR and the legal notice forwarded by the complainant it is apparent that grievance of him is that his account was utilized by accused, as a result of that Income Tax Department issued notice to him. Hence he wanted that applicant shall pay the income tax on the said turn over. It is not the case of complainant that any amount belonging to the complainant was misappropriated by applicant. Interim protection was granted to the applicant by Sessions Court vide order dated 31st August 2019. While granting interim protection it was observed that applicant had contended that he had attended Police Station as and when called by the Investigating Officer. On going through case diary it is found that the Investigating Officer has recorded statement of applicant one year ago. It was contended by prosecution that despite notice dated 9th October 2018 the applicant did not attend police station. The case diary shows that such notice was given to the applicant but date and time for remaining present is not specified. In the circumstances interim protection was granted by order dated 31st August 2019 on certain conditions. The applicant was also directed to attend Police Station.

6. The matter relates to documents. Considering the factual aspects, I do not find that custodial interrogation of the applicant is necessary for any purpose. He can be directed to co-operate with investigation. Hence, I pass following order :

ORDER

(i) Anticipatory Bail Application is allowed and disposed of;

(ii) In the event of arrest of applicant in connection with CR No.154 of 2019 registered with Azad Maidan Police Station, the applicant be released on bail on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

(iii) The applicant shall appear before Investigating Officer on 26th, 27th and 28th April 2021 between 11 am and 1 pm and thereafter as and when called for till filing of charge sheet.

(PRAKASH D. NAIK, J.)

MST