IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1139 OF 2021

Divyesh Patel ….Applicant.
V/s
State of Maharashtra …..Respondent

Ms. Suvarna Avhad Vast i/b Prakash J. Salsingikar for the Applicant.
Mrs. Rutuja Ambekar, APP for the Respondent/State.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 14, 2021

P.C.:-

1] Applicant is seeking pre-arrest bail in C.R. No.403 of 2016 registered with Samatanagar Police Station for the offences punishable under Sections 406, 419, 420 read with Section 34 of the Indian Penal Code.

2] Complainant runs Manpower Consultancy Agency. Before aforesaid business, he was in the business of overseas placement. Co-accused Khantil Shah, in response to the advertisement given by the complainant approached the complainant, stating that he is running Altis Adviser Pvt. Ltd, which has tie up with Acme Consulting, a Denmark based Company. It is claimed that through the said Denmark based Company overseas placement could be provided. It is alleged that from each of the candidates, amount of Rs 4 lakh is charged which will be accepted at various stages such as registration, appointment letter, visa and commission. As such, said Accused promised commission of Rs 50,000/- to the complainant against placement of each candidate. As a consequence, complainant called candidature by issuing advertisement from the candidates who are seeking overseas placement and forwarded their candidature for overseas placement to the Accused Khantil Shah on e-mail. The said Accused used to generate offer letter on the letter-head of Acme Consulting, Denmark and used to forward the same from his own e-mail address. Accordingly, said Accused Khantil Shah received substantial amount for 74 candidates from the complainant i.e. Rs 66,05,000/- in his Bank Account. Since the placement, as was assured, was not provided and candidates started demanding return of the amount, complaint came to be lodged.

3] The role attributed to the present Applicant is, he has received Rs 26 lakhs out of the amount of Rs 66 lakhs deposited in the Account of Khantil Shah. As such, involvement of the Applicant is apparent from the entries traced in the Bank Account of the Applicant which depicts his prima facie involvement. It appears that Applicant has acted hand-in-glove with the Accused Khantil Shah. Merely because Khantil Shah is released on regular bail, Applicant cannot be termed to be entitled for his release as his custodial interrogation is verymuch justified.

4] Matter was listed on 5/5/2021 when lawyer who represented Applicant made a statement about deposit of amount of Rs 26,50,000/- in this Court before the next date of hearing. Matter was accordingly adjourned to 16th June, 2021.

5] Fact remains that till this date, amount is not deposited.

6] When the matter is called out today, Mr. Avhad, learned Counsel for the Applicant informs that Applicant's earlier lawyer was not authorized to make statement about deposit of the amount as is reflected in order dated 5/5/2021. Even if it is assumed that such a situation exists, Applicant has neither issued any communication to the said lawyer nor any affidavit to that effect is placed on record but for oral submission. Even today, Court was willing to grant extension of time to the Applicant to deposit the said amount so as to depict compliance of the order dated 5/5/2021. Fact remains that Applicant obtained interim protection from this Court in serious economic offence from 5/5/2021 till this date.

7] In the aforesaid backdrop, considering dishonest conduct of the Applicant, in my opinion, he does not deserve discretionary relief from this Court.

8] Application stands rejected.

(NITIN W. SAMBRE, J.)