IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1197 OF 2021

Riyaz Sarafuddin Satkut .... Applicant

Versus

The State of Maharashtra .... Respondent

Mr. Pankaj Pandey for Applicant.
Mr. H. J. Dedhia, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 27 of 2021 registered at Amboli Police Station, Mumbai, under sections 406, 420 and 120B of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Pankaj Pandey, learned counsel for the applicant and Shri. Dedhia , learned APP for the State.

3. The First Information Report (for short 'F.I.R.) is lodged by one Shailesh Shirke. He has stated that, he was knowing

one Subhash Virkar. In January, 2021 Subhash told the informant that, if he invested Rs.25 lakhs in share market, he would get Rs.10 lakhs more on his investment within three hours of his investment. The informant told this to one Kalpana Rathod who showed willingness to invest such amount. She gave that amount to the informant. The informant contacted Subhash. The informant was told about Suresh Mohite as middleman and one Bhavesh who was another middleman through whom investment was to be made. On 03/02/2021, the informant and Subhash went near Kanjurmarg railway station. Then they went to Andheri. Suresh introduced Bhavesh with the informant and Subhash Virkar. Bhavesh, in turn, told the informant that, he knew one Bablu. He was to invest Rs.25 lakhs in share market and he was to give Rs.35 lakhs within 2 to 3 hours. The informant and others waited for Bablu near Infinity Mall. After some time, Bablu came there. Subhash took Rs.25 lakhs from the informant. Bablu told that, only one of them could accompany him and Bhavesh to his office. All of them went to a building known as Mohit Heights, R.T.O. Lane, Andheri. The informant and Suresh waited near the building.

Subhash, Bablu and Bhavesh went to that office. The informant called Subhash. The informant was told that, in that office, Rs.25 lakhs was given to one another person named Manish. Bablu and Manish had accepted that amount. The informant went there. After some time, Subhash and Bhavesh came and met the informant. However, Bablu was not contactable. His mobile phone was switched off. The informant realized that Bablu and his associates had cheated him and, therefore, this F.I.R. is lodged.

4. Learned counsel for the applicant submitted that, the applicant is not named in the F.I.R. He has no connection with the entire fraud and, therefore, he should be protected by an order of anticipatory bail.

5. Learned APP relied on the investigation carried out so far and in particular, he also relied on the statement given by the arrested accused. The main contention of learned APP is that, one office was taken on leave and license basis in the name of the arrested accused Nasir Sayyed, though, he was merely a rickshaw driver. This office was used by the accused in the offence. He submitted that, therefore, planning for execution of this fraud was

going on since before taking that office on leave and license basis. He submitted that the applicant is concerned with the part where the office was taken on leave and license.

6. I have considered these submissions and in particular, I have perused the statement of arrested accused Nisar Sayyed as relied on by learned APP and as recorded in the order dated 16/06/2021 passed by this court (Coram: Prakash D. Naik, J.). This statement also does not implicate the present applicant. The allegations made by co-accused are against one Nasir who had deposited some amount in the account of accused Nisar. That amount was used for taking that particular office on rent in the name of arrested accused Nisar. According to Shri. Dedhia, present applicant is brother of said Nisar and, therefore, he is connected. I am unable to accept this submission because statement of Nisar also is in respect of role played by Nasir. The applicant does not feature in his statement at all. Therefore, as of today, there is nothing to show that the applicant, in any way, was instrumental in cheating the informant in taking away his amount of Rs.25 lakhs. The F.I.R. does not refer to the presence of the applicant. In

this view of the matter, at this stage, there is no material against the present applicant justifying his custodial interrogation. He can be protected by an order of anticipatory bail. However, he will have to attend the concerned police station and will have to co-operate with the investigation.

7. Hence, the following order :

ORDER

(i) In the event of his arrest in connection with C.R.No. 27 of 2021 registered at Amboli Police Station, Mumbai, the applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)