IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1453 OF 2021

Keyur Jaykumar Shah ... Applicant
versus
The State of Maharashtra ... Respondent

Mr.Abhinav Chandrachud i/by Mr.Rajendra Rathod, Advocate for applicant.
Mrs.Anamika Malhotra, APP, for State.
API Shivshankar Bhosale, Vile Parle Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th June 2021

PC :

1. This is an application under Section 438 of Code of Criminal Procedure. The applicant is apprehending arrest in CR No.60 of 2021 registered with Vile Parle Police Station for offences under Sections 394, 170 r/w 34 of Indian Penal Code. The FIR was lodged on 19th February 2021.

2. The complainant has alleged that on 17th February 2021 he received information that two persons had stayed at Bawa Hotel situated at Nehru Road, Vile Parle East, Mumbai. Some persons approached two persons who had stayed at the said hotel. They impersonated themselves as Police and took away amount of Rs.12 crores which was in possession of two persons staying in the said hotel. The FIR was registered against unknown persons. The applicant preferred application for anticipatory bail before the Court of Sessions. The application was rejected.

3. Learned counsel for applicant submitted that there is no evidence to show involvement of the applicant in the crime. The FIR is vague. The prosecution case is false and concocted. There is no victim. No eye witness. No witness has implicated the applicant. The applicant is not named in the FIR and no role is assigned to him. Section 395 IPC is not attracted. The co-accused to whom prime role was attributed, has been granted anticipatory bail by the Sessions Court vide order dated 20th March 2021. While granting anticipatory bail to him it was observed that there is no direct or indirect material or evidence against him to show that he was involved in the crime. It is alleged that amount of Rs.1 crore was paid by the applicant to Rakesh Pande. That amount cannot be linked with the crime. The role assigned to Rakesh Pande is much higher than the applicant. The applicant's company had given friendly loan to Rakesh Pandey's company. The account of the company has been freezed. It is the case of prosecution that Rakesh Pandey through Angadia gave amount of Rs.1.45 crore to the applicant. The amount of Rs.60 lakh which the applicant company has transferred, are lying in the bank account of company of Rakesh Pandey and amount of Rs.50 lakh was handed over in cash on the instructions of Rakesh Pandey to the owner of vehicle and the statement has been given by the applicant to police. Custodial interrogation of the applicant is not necessary. Charge sheet is filed against 15 arrested accused. The name of applicant was not reflected in the FIR nor in the remand report. Accused no.8 Pravin Jain was granted bail. Other accused were also granted bail. The contents of FIR do not constitute any offence u/s 395 of IPC. There is no statement of any witness naming the applicant as the person involved in the offence.

4. Learned APP submitted that there is sufficient evidence to show the complicity of applicant in the offence. Custodial interrogation of the applicant is necessary. The CCTV footage shows that applicant has collected the amount from Angadia's office. The prosecution has preferred application for cancellation of anticipatory bail granted to Rakesh Pandey. The offence is of serious nature. Custodial interrogation of the applicant is necessary. Huge amount is involved in the office. The co-accused Rakesh Pandey and the applicant are acquainted with each other. During the investigation it was revealed that accused no.8 Pravin Jain had transferred amount of Rs.2.85 crores through Angadia to Rakesh Pandey. The Whats App chats regarding received amount is recovered during investigation. Out of the amount of Rs.2.85 crores, cash of Rs.1.40 crores was taken in possession by the applicant from the office of Angadia at the instance of Rakesh Pandey. The CCTV footage in that regard has been collected by Police. Since it was disclosed during investigation that applicant has accepted amount of Rs.1.45 crores, Police has visited the residence of applicant for making enquiry. However, applicant was not available at his residence. He proceeded to file application for anticipatory bail.

5. I have perused the documents on record. The offence is of serious nature. Huge amount is involved. Investigation has revealed complicity of applicant. The contention of applicant that there was genuine transaction between company of Rakesh Pandey and the applicant's company and the amount was received in that regard, cannot be accepted. The applicant has collected amount of Rs.1.45 crores from the office of angadia which is evident from CCTV

footage. There is sufficient evidence to show the involvement of applicant in the offence. Grant of bail to Rakesh Pandey cannot be considered as a ground for allowing this application. During investigation statement of one of the witness namely Chainsingh Jhala was recorded. He has identified the applicant as the person who had visited his office, which was recorded in CCTV, for collecting the amount. Considering the aforesaid circumstances, no case for grant of anticipatory bail is made out.

6. Hence, I pass following order :

ORDER

(i) Anticipatory Bail Application is rejected.

(PRAKASH D. NAIK, J.)

MST