IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1689 OF 2021

Shaikh Irfan Dawood .... Applicant
versus
State of Maharashtra .... Respondent

…….

- Ms.Anjali Awasthi, Advocate for Applicant.
- Smt.M.R. Tidke, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd JULY, 2021
(Through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.69/2020 registered with BKC Police Station, on 20/02/2020 under sections 420, 406 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by one Shahjad Sabir Ali Khan. He has stated that he was residing in a room at Patharnagar, Bharat Nagar, Bandra (E). His building was an S.R.A. project building. He started residing there since November 2018. In that building

there was no authorized water connection from Mumbai Municipal Corporation. The residents were getting water through tankers through one Sameer Shaikh.

3. At the outset, learned counsel for the Applicant makes a statement that this Sameer is none other than the present Applicant, who is named as Shaikh Irfan Dawood in the title of this application. There is no dispute about this identity.

4. The FIR mentions that in March 2019, the Applicant and one Shamsuddin Khan represented to the residents, that the Applicant's close relative Badruddin Maniyar had good connections with MMC and that through him, their building could get authorized water connection. But for that purpose, some expenses would be needed. The residents showed willingness to contribute for that. The FIR mentions that the Applicant had given the details of bank accounts. The residents deposited their contribution in that account. The FIR mentions that the residents collected Rs.2 lakhs for that purpose. In June 2019, the informant met the aforementioned Badruddin and

verified whether he had received Rs.2 lakhs. He accepted that he received Rs.2 lakhs from the Applicant. However, he represented that Rs.60,000/- more were required. The FIR gives list of 12 residents who had contributed towards collecting this deposit. In July 2019, some water connection was made with the help of some workers. It was done by the Applicant and aforementioned Badruddin. Within a month, officers of MMC came there and disconnected the water supply line because it was unauthorized. The residents again met Badruddin and the present Applicant. Again Badruddin asked for Rs.2 lakhs more and assured that this time water connection would be authorized. The residents paid Rs.2 lakhs more. The residents made further enquiries with the MMC and they came to know that the water connection still was unauthorized. Therefore this FIR was lodged.

5. Heard Ms.Anjali Awasthi, learned counsel for the Applicant and Smt.M.R. Tidke, learned APP for the State.

6. Learned counsel for the Applicant submitted that the FIR itself mentions that the Applicant had forwarded Rs.2 lakhs,

which were collected from the residents to Badruddin. Therefore offence, if any, was committed by Badruddin and not by the present Applicant. She submitted that the Applicant himself was supplying water through tankers as reflected in the FIR, for which there was outstanding dues is payable to him. To avoid making this payment, false allegations are made against him. She further submitted that the later portion of the allegation of accepting Rs.2 lakhs more is not supported by any material.

7. Learned APP opposed this application. She submitted that there are statements of other residents who had contributed towards this and had paid money to the Applicant. Therefore the Applicant is connected with the offence.

8. I have considered these submissions. First of all, the contribution was collected for illegal purpose. It was not for official purpose for getting authorized water connection. Secondly, the FIR itself mentions that the amount was given to Badruddin, who had accepted that he had received that money.

Therefore for that purpose, there is nothing to show that the Applicant had utilized money for his own benefit. Further Rs.60,000/- was also paid to Badruddin. Inspite of that, the authorized water connection was not given to the residents. Secondly, regarding payment of additional of Rs.2 lakhs, is concerned, as pointed out by learned counsel for the Applicant, there is nothing to show that the Applicant had received Rs.2 lakhs from the residents or it was deposited in his bank account. In this view of the matter, it does not appear that the Applicant himself had benefited from this collection of money. Therefore in this view of the matter, protection can be granted to the present Applicant. Custodial interrogation of the Applicant is not necessary. He can be protected by anticipatory bail order.

9. Hence, the following order :

ORDER

(i) In the event of his arrest in connection with C.R.No.69/2020 registered with BKC Police Station, the Applicant is directed to be released on bail on his furnishing PR 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.)