IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1760 OF 2021

Raju Manohar Naik .... Applicant
Versus
The State of Maharashtra .... Respondent

Ms. Sana Raees Khan, Advocate for the Applicant.
Mr. H.J. Dedhia, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.
DATE : 29th JULY, 2021
[Through Video Conferencing]

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.298/2021 dated 29.4.2021 registered at Khar Police Station, Mumbai under sections 420 read with 34 of the Indian Penal Code.

2. Heard Ms Sana Raees Khan, learned counsel for the applicant and Shri H.J. Dedhia, learned APP for the State.

3. The FIR is lodged by one Ravi Jaysing. He has stated that in 2011, the informant got acquainted with the present applicant in connection with the informant's shipping

business. In 2018, the applicant and one Padmakar Das gave the informant offer to invest his money in Oil Barge. The informant went to that place in October, 2018. The informant came to know that the company's name was Shri Tirupati Balaji Marine Enterprises Private Limited. Padmakar Das was the owner of the company having 49% shares. He took the informant to the ship-yard where some discussion took place. The informant initially refused to make any investment. Padmakar Das then called one Mansi, who was daughter of one Smt Ragini Khandelwal holding 51% shares in that company. The informant met her. At the meeting, the present applicant, his friend Naresh Roz, Mansi Khandelwal, Padmakar Das and Nikhil Natesan were present. At that time Mansi and Padmakar Das told the informant that the informant should invest Rs.50 Lakhs in the business and they would give him 34% shares in Shri Tirupati Balaji Marine Enterprises Private Limited. Out of the remaining shares, 32% shares were to be retained by Padmakar Das and 34% shares were to be retained by Ragini Khandelwal. Since the informant was offered 34%

shares in the business of ship repairing and manufacturing, he decided to invest Rs.50 Lakhs in that company.

4. On 6.11.2018, an MOU was entered into by the parties. Since the applicant was responsible for the transactions, the informant gave a cheque of Rs.25 lakhs in the name of the applicant's company 'USR'. The cheque was deposited and cleared in the applicant's company's account. The informant told the applicant to give a cheque to Shri Tirupati Balaji Marine Enterprises Private Limited. The informant told Mansi to transfer 34% shares of that company in the informant's name. Subsequently, the shares were not transferred. On 3.12.2018, the applicant, Mansi Khandelwal, Padmakar Das and Nikhil Natesan came to the informant's office. The informant gave a cheque of Rs.25 Lakhs from his Azzura International Company. Thus, he completed his part of transaction by making payment of Rs.50 Lakhs. The informant also paid Rs.13,72,500/- to Mansi because they asked for that amount under the pretext that it was needed for completing income tax return of the company.

5. In February, 2019, Ragini Khandelwal, Mansi Khandelwal, Padmakar Das and Nikhil Natesan came to the informant's office and handed over share certificates and share transfer forms. When the informant saw this share transfer form, he saw that the first name was that of the applicant and then second name was that of the informant. The informant was shocked because that was not the promised arrangement. He was to get 34% shares of the company. Thereafter, the shares were not transferred in his name and he realized that he was cheated to his amount of Rs.63,72,500/- and on that basis the FIR is lodged.

6. Learned counsel for the applicant submitted that the applicant is the Managing Director of the aforesaid USR i.e. United Shipping Repairs Company. The complainant himself is having 76% shares of that particular company. Thus, the applicant and the informant know each other since many years. She submitted that the applicant is not a beneficiary and in fact as directed by the informant the money paid to the applicant was transferred to Shri Tirupati Balaji Marine

Enterprises Private Limited.

7. She submitted that the informant has also initiated proceedings under Section 138 of the Negotiable Instruments Act. The present FIR is filed only to harass the present applicant. She submitted that the informant himself is insolvent and this FIR is filed to extract money from the applicant. She submitted that the main accused i.e. accused Nos.1 to 4 are granted interim protection by the Sessions Court. She also relied on the MOU dated 6.11.2018 annexed to this application at Exhibit-F.

8. Learned APP strongly opposed this application. He relied on the same MOU to advance his arguments in respect of the cheating committed by the applicant and others.

9. Shri Dedhia, learned APP pointed out that instead of the informant's name the applicant inserted his own name to get benefits of the MOU.

10. I have considered these submissions. The MOU is important. The MOU mentions that the company STB i.e. Shri

Tirupati Balaji Marine Enterprises Private Limited has taken financial assistance from Part B i.e. the present applicant and had undertaken to repay the same. All the benefits were extended to the applicant. STB had also accepted to issue fresh shares to the applicant.

11. Thus, although the money had come from the informant, it was the present applicant who was shown the beneficiary of this investment. This clearly was fraudulent. The MOU bears the signatures of one Shri Adithya Srinivasan and Sajid Bagwan.

12. The statement of Adithya is recorded on 19.5.2021. He has stated that when the MOU was executed, the applicant had told the informant that the draft of MOU was proper. Adithya has signed the said MOU as a witness in the absence of the informant and only by believing false representation of the present applicant.

13. All these allegations and the documents show that the investment was actually made by the present

informant and instead the applicant was made beneficiary. A pre-planned collusion of the accused including the applicant to dupe the informant is more than clear from those statements and the documents.

14. In this view of the matter, custodial interrogation of the applicant is necessary to find the *modus operandi*, money trail and involvement of others. No case for anticipatory bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)