IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 885 OF 2020

Chandan Narayan Mengji .... Applicant

Versus

The State of Maharashtra .... Respondent

Mr. Mohammad S. Mulla for Applicant.
Mr. H. J. Dedhia, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 25th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 1058 of 2020, registered with MIDC Police Station, Dist. Solapur, under section 420 of the Indian Penal Code (for short 'IPC').

2. The First Information Report (for short 'F.I.R.) is lodged by one Vikas Kshirsagar. He has stated that, in the year 2016 he was in need of a residential house. He wanted to take a

place for his residence on rent. Therefore, through a known agent Govind Shendge he contacted the present applicant who claimed to be owner of a flat at Kisan Sankul 218, Akkalkot, Solapur. The informant entered into a rent agreement for 11 months. The applicant had taken deposit of Rs.2 lakhs. The understanding was, that the informant did not have to pay any rent and there was no interest on this deposit. The informant was shown some photocopies regarding ownership of that house by the present applicant. It was decided that the deposit was to be returned at the time of vacating that house. In May 2016 the informant started residing in that house. Since 2016 up to 2019 there were three rent agreements. The applicant took Rs.50,000/- more. On another occasion, he took further Rs.50,000/- on the ground that his mother was admitted in a hospital. Thus, the informant had given him Rs.3 lakhs. In June, 2019 the informant was visited by a person who was acting on the instructions of one Raju Jagtap. He told the informant that, in fact, Raju Jagtap was the owner of the house. The informant showed him the rent agreement entered into with the present applicant. That person, in turn, showed him the documents in the name of Raju Jagtap. The informant, thereafter, tried to contact the applicant, but he was not found and, therefore, he lodged this F.I.R. According to the first informant he had suffered loss of Rs.3 lakhs. He was cheated and his amount was misappropriated by the applicant.

3. Heard Mr. Mohammad Mulla, learned counsel for the applicant and Mr. Dedhia, learned counsel for the applicant.

4. The applicant was protected by an interim order dated 17/12/2020. Since then time was sought by the learned APP for taking instructions. On 12/02/2021 also time was sought and the matter was kept on 18/02/2021. Again on 18/02/2021 time was sought and the matter was adjourned today i.e. on 25/02/2021. Even today the investigating officer is not present, therefore, I am proceeding to decide this application in absence of I.O. and without any assistance from the prosecution. The matter cannot be kept pending endlessly in this manner.

5. Learned counsel for the applicant submitted that the informant has not really suffered any monetary loss by investing Rs.3 lakhs. He had enjoyed residence for three years. If at all, the aggrieved party is Raju Jagtap who could have raised such grievance and could have lodged his complaint, but Raju, is in fact one of the witnesses to that rent agreement and, therefore, Raju was aware of this agreement.

6. I have considered these submissions. The applicant absolutely does not have any documents to support his claim of ownership of the property. He had no business to accept any rent from the informant. He had accepted amount without any authority. There clearly was a false representation. The agreement was fraudulent. Even as per their agreement, it appears that the applicant could have retained the interest on Rs.3 lakhs, but he could not have retained Rs.3 lakhs. After the informant realised that he was cheated, the applicant made himself unavailable. His entire conduct shows his dishonest intentions. His custodial interrogation is necessary to find out exact nature of fraud. He has

not made himself available after the fraud came to light. This also disentitles him from getting protection of anticipatory bail order. Role of Raju Jagtap also needs to be investigated. There could be collusion between different accused to deprive the informant of his money. In this view of the matter, custodial interrogation of the applicant is necessary.

7. The application is rejected.

(SARANG V. KOTWAL, J.)