

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2369 OF 2021

MOHD. ISMAIL MOHD KASIM SHAIKHAPPLICANT

V/s.

THE STATE OF MAHARASHTRARESPONDENT

Mr. Silvian Yohan Kale advocate for the Applicant

Mrs. Rutuja Ambekar APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: 26th OCTOBER, 2021.

P.C.:

1] Applicant is seeking pre-arrest bail in C.R. No. 386/2021 registered with Govandi Police Station for offence punishable under Section 420 r/w 34 of the Indian Penal Code.

2] Prosecution case is, main accused under the pretext of dealing in diamond at cheaper rate, called the complainant with amount of Rs. 5 Lakhs and removed the same from the custody of the complainant.

3] The role attributed to the applicant in this crime is, the sim which is used by the main accused for calling the complainant and other similar victims is issued in the name of the applicant.

4] The contention of the learned counsel for the applicant are, applicant himself is defrauded by the main accused. The sim was misused by main accused. Applicant is not the beneficiary of the amount involved in the crime and the applicant has already cooperated with the investigating officer.

5] Learned APP submits that applicant and main accused are absconding. Custodial interrogation of the applicant is necessary and that being so, application is liable to be rejected.

6] Considered submissions.

7] The plea raised by the applicant that sim card was misused or misplaced is at variance before this Court and the Trial Court as the

contradictory pleas are taken by the applicant.

From the sim of the applicant main accused called the complainant repeatedly by changing the location. Issuance of sim and use of it is not disputed by the applicant.

8] Main accused is already absconding and there are statement of witnesses wherein same sim is used for calling other victims like the complainant.

9] There appears to be sufficient material to directly implicate the applicant in the offence in question which warrants his custodial interrogation. No case for bail is made out. Application stands rejected.

[NITIN W. SAMBRE, J.]