IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2657 OF 2019

JITESH AMRITLAL VAKHARIA ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr.Mohammed Amin Haroon Solkar a/w. Pratik Karande for the applicant.
Mr. N.B. Patil, APP for the State.
Mr. Pankaj Dhadge, PI, V.B. Nagar Police Station, Mumbai City.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 7, 2021

P.C. :

Heard learned counsel for the applicant.

2. This is an application for pre-arrest bail in respect of C.R.No.194 of 2013 registered with Vinoba Bhave Nagar Police Station for the offence punishable under Section 420 read with 34 of the Indian Penal Code on the complaint of one Sandip Shivaji Hutgi.

3. My attention is invited to the First Information Report (FIR) dated 17/8/2013. It is alleged by the complainant that he was introduced to one Shri Datta Kokane by his

neighbour Shri Machhindra Rajaram Kharatmal. Shri Kharatmal told the complainant that Shri Datta Kokane is an agent of 'Shree Kuber, Jejuri Tours and Travels Company'. He was further informed that if the investments are made in the said company the same would get doubled within a period of six months. On his inducement, the complainant decided to invest a sum of Rs.3 lakhs. The amount of Rs. 3 lakhs was handed over at the residence of Shri Datta Kokane to him. The complainant called upon the said Shri Datta Kokane to hand over the receipt of having invested the amount with 'Shree Kuber, Jejuri Tours and Travels Company'. After about six to eight months, the complainant came to know that the amounts invested by Shri Kharatmal are not being returned and therefore even the complainant requested that his amounts to be returned. When the complainant visited Shri Datta Kokane at Bhavan's College, he was informed that Shri Datta Kokane is not the agent but his wife Mrs. Varsha Kokane is and that he should take back the monies from her. The complainant insisted that as the amounts have been handed over to Shri Datta Kokane, the same should be returned by him. The complainant realised that Shri Datta Kokane had induced several persons to part with money and cheated them. He further learnt that Shri Datta Kokane had purchased properties in his home town and also at Kharghar. The complaint, therefore, against Shri Datta Kokane who had induced the complainant to part with sum of Rs. 3 lakhs with a promise that if invested the amount would double within six months.

4. Learned APP submitted that the applicant is the mastermind of this scam as many people have been lured in making investments on a promise that the investments would double within six months.

5. Learned counsel for the applicant does not dispute that the applicant is the owner of “Shree Kuber Bhandar Tours and Travels Company” and submits the applicant is in the business of conducting tours for pilgrimage and other travel related activities.

6. The averments are made in the memo of the application filed by the applicant that there are several cases registered against the applicant. Though the FIR was

filed as far back as in the year 2013, the applicant's custody is sought as his name appeared in the chargesheet filed in the Court of learned Metropolitan Magistrate, 52nd Court, Kurla. The applicant is shown as wanted accused.

7. Learned APP pointed out that Shri Datta Kokane has made a statement that it is at the behest of the applicant that the people were investing money.

8. The averments made in the application reveal that at least on two occasions the applicant was arrested and released on bail. The applicant was arrested recently on 13/3/2018 in a case registered with Vashi Police Station being C.R.No. I-443/2017 under Sections 465, 466, 467, 468, 471 read with 34 of the Indian Penal Code and released on bail on 8/6/2018.

9. So far as instant FIR is concerned, the same was filed as far back as in the year 2013 and the allegations made therein show complicity of Shri Datta Kokane. Even the complainant insisted that monies should be returned by Shri Datta Kokane as the same were handed over to him. There is nothing on record to indicate that the applicant had

induced the complainant to part with the amounts. Learned APP was at pains to point out that Shri Datta Kokane had from his account transferred substantial sum of money in favour of the applicant. The applicant was in custody in the year 2018 and even prior thereto in respect of some other offence registered against him but no attempt was made to take his custody then.

10. I have gone through some of the bank account statements of Shri Datta Kokane produced by learned APP. Though there are several transactions indicating different amounts deposited, there is nothing to suggest that the amount of Rs.3 lakhs handed over was deposited by Shri Datta Kokane in the bank account of the applicant.

11. Considering the nature of the allegations and the distance of time since filing of the FIR in the year 2013, in my opinion, custodial interrogation of the applicant is not necessary. The applicant was granted interim protection by an order dated 9/12/2019 and directed to report to the investigating officer. By an order dated 13/10/2021, this Court had again directed the applicant to report to the

investigating officer. Learned APP submitted that pursuant thereto the applicant did report but is insisting for his custody. The chargesheet has been filed against Shri Datta Kokane. In my opinion, merely because the applicant has antecedents and several cases are registered against him is no ground to deny pre-arrest bail, in the peculiar facts considering the nature of the allegations made in the instant FIR. I am inclined to allow the application. Hence the following order.

ORDER

(I) Interim protection granted to the applicant by the order dated 9/12/2019 stands confirmed;

(II) In the event of arrest of the applicant in C.R.No.194 of 2013 registered with Vinoba Bhave Nagar Police Station, the applicant shall be released on bail, on executing P. R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or more sureties in the like amount;

(III) The applicant shall furnish his residential address as well as permanent address and mobile contact number and/or change of residence or mobile details, if any, to the investigating officer within seven (7) days from today;

(IV) The applicant shall report to the investigating officer as and when call and co-operate with the investigation.

(V) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

12. I make it clear that these are all *prima facie* observations limited for consideration of this application.

13. The application is disposed of.

(M.S.KARNIK, J.)