IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2725 OF 2019

Danish Saleem Khan .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Vineet Sukumaran for Applicant.
Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd SEPTEMBER, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 493 of 2018 registered at D.N.Nagar Police Station, on 03/11/2018, under section 420 of the Indian Penal Code (for short 'IPC') and under sections 66(C) and 66(D) of the Information Technology Act.

2. Heard Shri. Vineet Sukumaran, learned counsel for the applicant and Shri. Ajay Patil, learned APP for the State.

3. The First Information Report (for short 'F.I.R.) is lodged by one Anusha Nar. She has stated that, she has a Saving

Bank account with the State Bank of India, four Bungalow branch. She has an ATM card of that bank. On 03/11/2018, she received a phone call from an unknown number. She was told that the caller was speaking from the main branch of S.B.I. He told the informant that, her ATM card was blocked and that she should immediately take steps to make it functional, otherwise, she would be required to pay Rs.2000/- as fine. The informant initially tried to tell him that she did not have time to do all this. However, the caller instilled fear in her mind that her bank account would be closed. Therefore, she answered his questions. She gave him the ATM card number. After that she received an OTP number, it was given to that caller. After that, she received two messages on her mobile phone informing her that her account was debited on two occasions for Rs.50000/- each and that amount was credited to the account linked to *spicedigital@icici* Bank. The informant went to her bank. She made inquiries. She came to know that Rs.1 lakh was removed from her account without her consent. Thereafter she blocked her ATM card and gave an F.I.R. to the police.

4. Learned counsel for the applicant submitted that the

applicant is not involved in the offence. He is working as a Food Supply Officer at Madhya Pradesh. He is a Government servant. He has nothing to do with the company in whose account the money was transferred. He submitted that, somebody has used his KYC documents and other documents, as well as, his signatures in the transactions and, therefore, he is not responsible. He submitted that the offence is quite old and police have not filed charge-sheet. He further submitted that, he has diligently attended the police station and has co-operated with the investigation.

5. Learned APP opposed this application. He produced a police report dated 18/09/2021 that mentions details of commission of offence. According to the investigating agency, fraudulent transaction was done on 03/11/2018. There were two transactions of Rs.50000/- each. The total amount was transferred to ICICI bank. The investigating agency sought information about that particular account. The Nodal officer of the ICICI bank informed that the account was in the name of Spice Digital Ltd., Global Knowledge Park, Noida, Uttar Pradesh. Thereafter that bank account was debit freezed. The Nodal Officer of the Spice

Digital Ltd. informed the investigating agency regarding the present applicant. He was described as an Agent of that company. All the details of his PAN card, Aadhar card, Date of Birth, Wallet status were provided to the investigating agency. He also submitted the bank statement of the said account through which the applicant had transferred the said amount to three different accounts in three different banks. The amount was received from the informant's account in the applicant's money wallet linked with the Spice Money and thereafter it was transferred to Punjab National Bank, Karnataka Bank and Axis Bank. The details of the transferee were also taken by the investigating agency. The Spite Money was a digital wallet through which the agent transfers the amount in the company's account. However, in this case the applicant had transferred the money, received fraudulently from the informant, to the above mentioned three banks. The police report further mentions that the applicant has not co-operated with the investigation. The said report is taken on record and marked 'X' for identification purpose.

6. I have considered the submissions of both the sides. At

this stage, the investigating agency has sufficient material against the present applicant. The transactions were recorded in various bank statements. The amount in question was transferred from the informant's bank account to the applicant's digital wallet and from there onwards it was transferred to various banks. The crime is serious. The cyber crimes are really creating hurdles in progress of the economy. It is absolutely necessary to curb these offences. At this stage, there is sufficient material against the present applicant warranting his custodial interrogation. The details of the commission of offence and the manner of commission of offence can only be found after custodial interrogation of the applicant. In this view of the matter, no case for anticipatory bail order is made out.

7. Application is rejected.

(SARANG V. KOTWAL, J.)