IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2828 OF 2019
WITH
INTERIM APPLICATION NO.255 OF 2020

Pradumna Shrihari Nirmal .. Applicant

Vs.

The State Of Maharashtra .. Respondent

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Mr.Niranjan Mundargi i/by Mr. Zaid Qureshi & Mr. Keral Mehta, Advocate for Applicant.
Mr. Rajiv Chavan, Senior Advocate a/w Ms. Priyanka Chavan, with Ms. Angelina Patil, advocate for Intervenor.
Mr. R.M.Pethe, APP for the Respondent-State.
Mr.Jadhav (P.S.I.) E.O.W. Pimpari chinchwad, Present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 7th SEPTEMBER, 2021

PC.

1. This is an application for anticipatory bail in C.R. No.658 of 2019 registered with Wakad Police Station for the offences punishable under Sections 420, 406, 467, 468, 471, 403 read with section 34 of the Indian Penal Code (for short “IPC”).

2. The case of the prosecution is as follows:-

(i) In May 2016, the applicant was introduced to the complainant by Ashok Dak. The complainant was informed that applicant is working with Wipro Company. The applicant told the complainant that he is interested in carrying business of supplying furniture. He was working with Wipro Company and has good contacts. He intends to start a business of supplying furniture to Wipro company and by obtaining vendorship from company. He needs three to four persons like complainant. They can conduct business together. The complainant appraised the aforesaid discussion to his friend Raghunath Chitre and Nitinkumar Taur. Complainant, his friends and applicant decided to meet at Wakad.

(ii) Joint meeting was held with applicant, Raghunath Chitre and Nitinkumar Taur, Ashok Dak with applicant.

(iii) It was decided to start business. Since the applicant was employed with company, it was decided to induct his father Shrihari Bapurao Nirmal as partner and the actual work relating to business was to be conducted by the applicant. It was also agreed that on obtaining vendorship from Wipro Company, the furniture was to be supplied to the said Company and the profits were to be shared by all of them.

(iv) On 25.05.2016 they incorporated partnership firm Shrihari Business LLP having office at Jio Squre, 201, B Wing, Kaspate Chowk, Hinjewadi-Wakad Road, Pune. Vendorship was obtained and bank account in the name of the firm was opened with IDBI Bank Hinjewadi Branch.

(v) Raghunath Chitre, Nitinkumar Taur and Shrihari Nirmal started depositing money in the IDBI Bank from 06.08.2016. The complainant and his two friends invested amount of Rs.4,50,00,000/-. For executing transactions and handling bank accounts, using the amount for business, dealing with cheques, correspondence, purchase and sale, executed transactions with other concerned, father of the applicant was appointed as CEO. Letter in that regard was issued to him.

(vi) Initially the transactions were smooth. The applicant performed the work in the interest of partners and after gaining confidence of complainant and others, he diverted the amount of Rs.4,50,00,000/- invested by the complainant and others and the amount of Rs.1,30,00,000/- invested by father of the applicant to different bank accounts. The complainant and others were shown fake bills of Patanjali and other companies. The applicant also altered the bank statements showing inflated figure and false stamp of bank to misrepresent the complainant and others to make them believe that the documents are genuine.

(vii) The complainant and others came to know about fraudulent transaction in April 2018. They obtained the bank statements of IDBI Bank of Hinjewadi branch and it was noticed that there were irregularities and that they were cheated by the applicant. The amount invested by the applicant and others was diverted to different accounts. Inquiry was made with Sanjay Javale, who is working as accountant. He informed that the applicant had pressurized him to make false entries in the business account. The employee Pramila Nehra and Priyanka Jadhav informed them that under the pressure of the applicant they made false entries. Discussion was also held with Chartered Accountant of the firm Atul Hatarange. He was shown the false account statements. They were informed that he had prepared balance sheet. Subsequently, it was found that there were differences in the balance sheet prepared by the Chartered Accountant inducted by the applicant and Chartered Accountant engaged by complainant and others.

(viii) It was also revealed that the applicant was terminated from the employment of Wipro Company in 2015. On inquiry about the amount of 4,50,00,000/- invested by the complainant and others, it was revealed that by using the said amount the applicant had purchased the property in the name of his father-in-law and wife at Wai. He also executed property transaction with Dinesh Dhumal.

(xi) The complainant and others demanded money from the applicant. He executed the writing on 06.12.2018 and admitted that Rs.4,50,00,000/- were spent by him and he would return the said amount within three months.

(x) The applicant stated that the farm was purchased by him at Wai and the transactions was stopped. On completion of said transaction the said property could be mortgaged with the bank and amount of Rs.2 crore could be obtained as loan. The applicant kept on insisting that the amount of Rs.8 lakhs be provided by complainant and others for the purpose of registration of documents. Believing his representations amount of Rs.8 lakhs transferred into the account of the applicant on 26.11.2018. The firm had earned profit of Rs.57 lakhs. They were cheated for amount of Rs.5,07,00,000/-.

3. The applicant had preferred application for anticipatory bail before the Sessions Court which was rejected by order dated 17.12.2019.

4. Learned counsel for the applicant submitted that the applicant is businessman by profession. He has served in Wipro Company. He has been falsely implicated in this case. The FIR has been lodged to pressurise the applicant to settle demand of the complainant and others. The applicant do not hold share in the firm. He is not involved in siphoning the amount. The writing was executed under the coercion. The complainant and Raghunath Chitre had received the returns. There is no evidence to substantiate the offences against the applicant. On 30.05.2016, Shrihari Business LLP was registered, Raghunath Chitre, complainant, Nitinkumar Taur,

Ashok Dak and Shrihari Nirmal were partners. Day to day business were looked into by complainant and others. The applicant was directed to invest the fund in different business concerns to make profits. The amount was transferred into the account of the complainant and his associates. The applicant had transferred amount to the personal account of Raghunath Chitre, Nitinkumar Taur and complainant from the joint account. Rs.3,30,94,515/- were transferred to the account of partnership firm and complainant. The applicant is not signatory to any documents of money transactions nor beneficiary of the same. The dispute is of civil nature. The entire evidence is documentary in nature. The applicant is not executor nor signatory of documents. The applicant is not involved in commission of the offences of forgery. The applicant has not taken any money from witnesses. There was no false representation. Custodial interrogation of the applicant is not necessary.

5. Learned APP submitted that the applicant has played vital role in fraudulent transactions. He was instrumental in making false representations to the complainant and witnesses. The amount is misappropriated by the accused. Letter was written by IDBI Bank to Wakad police station dated 14.06.2019 in which it was stated that Hinjewadi Branch of IDBI Bank never had a colour printer and never issued colour statement to customers. They used black and white tonner for

printing statement. Paper quality of the statement is different than what is used in IDBI Bank, Hinjewadi Branch. The bank follow practice of issuing statement in landscape mode and the documents produced before the bank by the police indicate that it was in the portrait format. Statement was printed only on one side of the page. The bank follows of practice printing the statement on both the sides. Statement was not stamped on all the pages of and the place of putting the stamp on the paper was different. The statement of all the witnesses recorded during the investigation mentioned that the applicant used to hand over the colour copy and ordinary copy of bank statement and the same was compared with tally account book. The witness had no authority to operate the bank account. There was difference between bank statements and tally account balance. Statements of other witnesses also contained incriminating evidence against the applicant. Learned APP also relied upon the bank statements and other documents which were manipulated by the applicant/accused. The bank statements were fabricated promissory notes were executed by the applicant. Statements of bank employees were recorded which disclosed the complicity of the applicant.

6. Learned senior advocate Mr. Rajiv Chavan appearing for the intervener/complainant submitted that the complainant and others were deceived by the applicant. Huge investment was made by the aggrieved persons. Initially for 8 to 10

months, the applicant/accused was looking after the business transactions efficiently and gained the confidence and trust of the complainant and others. The accused diverted the investment of 4,50,00,000/- of the informant and his friends into the account of Vedant Enterprises and other accounts of his relatives. The applicant showed forged bills/invoices of Patanjali and other companies and also by showing forged bank statements of IDBI created the bank statements of overvalued amount and used forged seal of IDBI Bank and misguided complainant and others. The complainant and others subsequently noticed the discrepancies in the original bank statements of IDBI bank and new bank account of Shrihari Business LLP in Kotak Mahindra Bank. The investments of the complainant and others were siphoned off. He pressurized the Accountant of the company and forced him to make forged entries. The applicant created documents. The Chartered Accountant informed that the accused had given him forged account statement of IDBI Bank and false bill/invoices. Chartered Accountant prepared original balance sheet and the report from the original account statement of IDBI Bank and on comparing both balance-sheets, it was found that there were huge differences. The applicant informed that he purchased the land by using amount of Rs.1.5 crore. On 14.12.2018, Nitinkumar Taur transferred Rs. 8 lakhs into the account of applicant's wife and his father-in-law, since the applicant represented that he has purchased the property.

General power of attorney was executed by Shrihari Nirmal appointing the applicant to be his lawful attorney. MOU was executed on 06.12.2018. Learned counsel pointed out promissory note, MOU and bank statements. The applicant had operated the transactions of Vedant Enterprises, it was the business concern of his family. Reliance is also placed on the Special Audit Report. It is submitted that the application be rejected.

7. I have perused the documents annexed to the application for anticipatory bail, intervention application and the investigation papers. The applicant (accused No.1) has played vital role in alleged fraudulent transactions. Huge investment was made by the complainant and his friends. The entire amount of Rs.4,50,00,000/- was diverted and siphoned off by the accused. The case of the prosecution is that the applicant has fabricated bank statements. The statement of employees of Shrihari Business LLP were recorded. They have stated that the applicant (accused No1) has forced them to execute false entries. The accused No.1 has executed promissory note and admitted that the amount was diverted to the account of other companies. I have perused the chart of money transferred by the informant and his friends in Shrihari Business LLP. Letter of appointment of applicant as CEO of Shrihari Business LLP, copy of promissory note, fabricated bills/invoices of Patanjali, forged bank statements of IDBI Bank and Audit reports, MOU,

bank statements showing transfer of Rs. 8 lakhs into the account of the applicant, wife and father-in-law of the accused No.1. There was no complaint by the accused No.1 that he was forced to execute promissory note, after the said document was executed. In the promissory note, it is stated that the applicant accused has transferred the amount invested by complainant and others. Thus, there is strong evidence to show involvement of the applicant/accused No.1.

8. Considering the voluminous evidence against the applicant, he is not entitled for anticipatory bail.

ORDER

(i) Anticipatory Bail Application No.2828 of 2019 is rejected and disposed of.

(ii) Interim Application No.255 of 2020 is disposed of.

(PRAKASH D. NAIK, J.)

. At this stage learned counsel for the applicant requested for extension of interim relief granted by this Court. Learned APP and learned counsel for the intervenor strongly objected the submission on the ground that the investigation is stalled since last one and half year. Considering the fact that, huge amount is involved in the transaction, prayer for extension of interim relief is rejected.

(PRAKASH D. NAIK, J.)