**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

919 ANTICIPATORY BAIL APPLICATION NO.816 OF 2022

VICKY RAJESH GAVIT
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr. Ravindra S. Shinde, Advocate for applicant;
Ms. V. S. Choudhari, A.P.P. for respondent/State;

CORAM : S. G. MEHARE, J.

DATE : 20th July, 2022

P.C.

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent at length.

2. In the first information report lodged by Kalubai. The specific allegations have been levelled against the co-accused Akshay Bhamre. It has been vehemently argued by the learned counsel for the applicant that the State Bank of India had appointed Zero Mass Pvt. Ltd. for customer service centre. The applicant Vicky approached the said company. The said company appointed him as customer service provider to run the customer service centre. The applicant appointed the main accused Akshay as 'Sub-KO' with the consent of Zero Mass Pvt. Ltd. The co-accused Shailesh was also appointed as customer service provider. Akshay was actually running the service centre.

3. Since there used to be heavy rush in the bank, the bank transactions were to be done by this customer service centre through the customer service provider. The “Sub-KO’ Akshay met with an accident. He was in need of money, so he raised loan from many persons. He could not repay the loan. Therefore, he has committed fraud with the poor persons. Since Akshay was appointed as ‘Sub-KO’, he was using the ‘Sub-KO’ ID. Since he has committed the fraud with the poor people, the applicant lodged a report against him on 9.5.2022. The applicant never received money from any of the customers. Akshay was responsible for the actual transactions. Since the applicant was customer service provider, people started demanding him the money.

4. It is also argued that the applicant is from a well to do family. Therefore, police were also forcing the applicant to pay the money. In fact, he has no role to play in the offence. The applicant has a suspicion that some false statements have been created by the police against him. The applicant is married. He has family responsibility. He is ready to cooperate with the investigating machinery. He may be released on anticipatory bail.

5. The learned APP has strongly opposed the application contending that there are witnesses who are directly stating against the applicant that he had also received money from the customers, but did not deposit. He was controlling the service centre. Everything was going on to his knowledge. Therefore, for recovery of the money siphoned by him, his custodial interrogation is necessary.

6. Admittedly, in the first information report there are no direct allegations against the applicant. However, the police recorded the statement of one witness, who never made the complaint before the present report against the applicant about receiving the money from the present applicant. The investigation papers further reveal that the serious allegations have been levelled against co-accused Akshay. Even co-accused Shailesh tried to return the money of one of the customers by giving his motorbike. When the applicant learnt about the illegal activities of Akshay, he lodged a report to the Superintendent of Police on 09.05.2022, and thereafter the present first information report is registered. It seems that Akshay was appointed as 'Sub-KO' and he was looking after the actual business of the service centre. He has specifically mentioned in the report that Akshay is absconding.

7. He went to the police station to lodge the report, but police told him that he is also the co-accused. However, the police did not arrest him when he had been to the police station. If really the police had any material against the applicant, the police would have arrested him immediately, but they did not arrest him. When the applicant approached the Police Station Pimpalner, no offence was registered against him, then the question arises in the mind of a common man, how the police were knowing that the applicant has committed the offence. The possibility of arraigning the accused to recover the money from him as he is financially sound, cannot be ruled out. The persons who are now stating against the accused never lodged the report against him. He has lodged the report against Akshay in detail and explained how he has played the fraud. The conduct of the applicant appears *bona fide*. He approached the police many times, but unfortunately the police did not take cognizance of his complaint.

8. A solitary witness has deposed against the applicant that too after registering the present crime. So, considering the facts of the case, his apprehension of arrest is just and proper. The applicant has made a statement that he is from well to do family. That may also be a fact to involve him in the crime. The fact remains that he was just appointed as a customer service provider and the co-accused Akshay

was doing the actual business. In the circumstances, if the protection as prayed is granted to the applicant, there would be no harm to the prosecution. Hence, the following order-

i) The application is allowed.

ii) The interim protection granted to the applicant by order of this Court dated 04.07.2022 is confirmed on the condition that the applicant shall provide all material data of the customer service centre to the investigating agency and attend the police station as and when called on written notice.

(S. G. MEHARE, J.)

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