IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.99 OF 2022

Nikhil Natesan Muttukrishanan .... Applicant
versus
State of Maharashtra .... Respondent

…....

- Mr.Ali Kaashif Khan Deshmukh a/w Riya Jain, Advocate for Applicant.
- Smt.J. S. Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th JANUARY 2022
(through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.298/2021 registered with Khar Police Station, Mumbai, under sections 420 r/w 34 of the Indian Penal Code.

2. Heard Mr.Ali Kaashif Khan Deshmukh, learned counsel for the Applicant and Smt.J. S. Lohokare, learned APP for the State.

3. The FIR is lodged on 29/04/2021 by one Ravi Bansi Jaysingh. He has stated that in the year 2011 his friend Rishi Agarwal introduced the informant to accused Raju Naik. In 2018 Raju Naik and Padmakar Das suggested to the informant that he should invest in a oil barge at Kalyan. The informant went to the

site in October 2018. The informant saw that the name of the shipyard company was Shree Tirupati Balaji Marine Enterprises Pvt. Ltd. The company was owned by Padmakar Das and he had 49% shares of that company. The informant was taken to the Yard where the barge was constructed. At that time, the informant had refused to invest in this business. The said accused Das then called one Mansi Khandelwal who was daughter of Ragini Khandelwal. The informant was told that Ragini was having 51% shares of the said company. The informant met Mansi at Kamat restaurant at Kalyan. At that time, the other accused namely Raju Naik and his friend Naresh Roz, Mansi and the present Applicant were present. At that time all of them including the present Applicant told the informant that if he did not want to invest in the barge, then he could invest Rs.50 lakhs in the shipyard and he would be given 34% shares of Shree Tirupati Balaji Marine Enterprises Pvt. Ltd. The balance shares would be retained by Padmakar Das as 32% and Ragini would retain 34% shares. On this inducement the informant showed his willingness to invest in that company. In the meeting the Applicant was introduced as Mansi's friend. On 06/11/2018, the MOU was signed by the informant in his office. At that time, the informant gave a cheque of Rs.25 lakhs in the name of Raju Naik's company M/s. USR. The cheque was cleared on 09/11/2018. Raju Naik was told by the informant to give said amount through cheque to Shree Tirupati Balaji Marine Enterprises Pvt. Ltd. The FIR mentions that, at that time, Raju Naik, Mansi Khandelwal, Padmakar Das and the present Applicant were present. At the same meeting the informant asked Mansi to transfer 34% shares in the informant's name. But the informant was never given 34% shares.

4. On 03/12/2018 accused Raju Naik, Mansi Khandelwal and the present Applicant came to the informant's office. At that time, the informant gave cheque of Rs.25 lakhs issued from his company known as Ajura International. It was given in the name of M/s. Shree Tirupati Balaji Marine Enterprises Pvt. Ltd. Thus investment of Rs.50 lakhs was made by the informant, but even after that, 34% shares were not transferred in his name.

5. The FIR goes on the mention that subsequent to that, Mansi Khandelwal and the present Applicant called the informant and told him that they had to file Income Tax returns and they had to pay money and on that pretext they took Rs.13,72,500/- through cheques. After that nothing transpired. No shares were transferred in his name. In February 2019 all the accused including the present Applicant came to his office and gave share certificate and share transfer forms. In those forms the name of Raju Naik was mentioned as the first shareholder and thereafter the informant's name was mentioned. The 34% shares as promised were not transferred in the name of the informant. Thereafter the accused Ragini and Mansi refused to transfer the shares and instead threatened the informant. On this basis the FIR is lodged.

6. Learned counsel for the Applicant submitted that the MOU was executed and the shares were to be transferred in the name of the Applicant's wife and not in the name of the

informant. He submitted that the present Applicant is only a witness to the MOU. He is not a beneficiary. He is not concerned with business of any of the companies. He submitted that there are no criminal antecedents against him. The earlier offence which was pending is already settled. His custodial interrogation is not necessary.

7. Learned APP opposed this application. She submitted that the co-accused Raju Naik, Ragini Khandelwal and Mansi Khandelwal had filed anticipatory bail applications, which were already rejected. Raju Naik was arrested in this case. She submitted that the Applicant has signed an MOU dated 06/11/2018, but in that MOU the informant's name is nowhere mentioned. She submitted that the bank statement shows that immediately after execution of the MOU an amount of Rs.50,000/- was transferred in the name of Applicant by Raju Naik's company. It shows that the Applicant was aware of the actual facts and he was also aware that the informant was duped in this case. In spite of that he signed different MOU

where the informant's name was not mentioned. Thus he was aware of the entire transaction. He was present every time. Therefore his custodial interrogation is necessary. Learned APP also submitted that there is one offence pending against Mansi Khandelwal and the present Applicant together vide C.R.No.170/2020 at Khadakpada Police Station.

8. I have considered these submissions. I have perused MOU dated 06/11/2018, a copy of which is annexed to this application at Ex. 'C'. In that MOU it was mentioned that the accused Raju Naik was to offer financial assistance to M/s Shree Tirupati Balaji Marine Enterprises Pvt. Ltd. owned by Padmakar Das and Ragini Khandelwal. The MOU mentions that after extending financial assistance, the accused Ragini was to get 34% shares in the name of M/s. United Ship Repairs and Marine Works Pvt. Ltd. There was no reference to the informant's name. The investigation has revealed that the informant's amount of Rs.50 lakhs was taken by Ragini on different pretext and yet it was not used to give shares to the informant, instead the money

was used to give 34% shares to Raju Naik. All the accused are involved in these activities and offence. The FIR mentions all this background. The Applicant's role is mentioned in the FIR itself. At every meeting the Applicant was present. The Applicant was aware that the money was coming from the informant and the shares were to be given to the informant and yet the shares were given to Raju Naik. The MOU was in the name of Raju Naik, which is signed by the Applicant as a witness knowingly. He had received Rs.50,000/- as the benefit. Therefore it cannot be said that he is not a beneficiary. The FIR also mentions that on certain occasions he and Mansi had called the informant and had obtained Rs.13,72,500/-. Thus the Applicant's role is also clearly mentioned in the FIR itself. The entire transaction is fraudulent. The informant's money was misappropriated. Therefore custodial interrogation of the present Applicant is also necessary. No case for anticipatory bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)