IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. ANTICIPATORY BAIL APPLICATION NO. 1459 OF 2021

Ashish Ignatius Shelke ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Viresh V. Purwant i/b. Mr. Sachin Thombre, for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent / State.
Mr. Niranjan Bhavake, for the Intervener.
PSI Avinash Shinde, Hadapsar Police Station, Pune City.

CORAM : C.V. BHADANG, J.
DATE : 8 FEBRUARY 2022
(Through Video Conferencing)

P.C.

. By this Application, the Applicant, apprehending arrest in connection with investigation of Crime No.367/2021 of Police Station Hadapsar, Pune, under Section 465, 467, 468, 471, 408 and 420 of IPC, is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint lodged by Sunil Suresh Tarate, an Authorised Officer of Company by name City Corporation Ltd. The said company had proposed a township under the name and style as *Amanora Park Town,* at

Hadapsar, Pune, comprising of about 15,000 flats / tenements. The Applicant was appointed as an employee of the said company in order to process and to facilitate the home loan applications of the flat purchasers from different financial institutions such as Punjab National Bank, Housing Finance Corporation, HDFC Bank and State Bank of India etc. It is the material allegation that the Applicant although not entitled to receive commission had generated a code and received commission in respect of the home loans from various financial institutions to the tune of Rs.40 to 45 Lakhs in his account and has thus, cheated the company and misappropriated the amount.

3. I have heard the learned counsel for the Applicant and the learned APP assisted by the learned counsel for the Complainant. I have gone through the record.

4. Learned counsel for the Applicant has placed strong reliance on the communication dated 18 August 2010 purportedly issued and signed by one Shilpa Potdar for and on behalf of City Corporation Ltd., thereby authorising the Applicant to accept whatsoever commission offered by the HDFC Bank Ltd. and India Bulls Housing Finance Ltd. for the loan proposals of flat purchasers in *Amanora Park Town.* It is submitted that there are other documents to show that the Applicant was so authorised to receive

the commission, as the remuneration paid to the Applicant was not sufficient. It is submitted that in that view of the matter, the company has allowed the Applicant to receive the commission.

5. The learned counsel for the Applicant was at pains to point out that transactions date back to 2010 and for sufficient long period the commission was being received in the account of the Applicant for which no objection or action was taken by the company which according to the learned counsel is indicative of the fact that there was an arrangement under which the Applicant was authorised to receive the commission.

6. Learned APP pointed out that according to the prosecution, even the letter dated 18 August 2010 is a forged and fabricated letter. He pointed out that the communication was made to the officers of the company and as per email dated 21 September 2021 Ms. Shilpa Potdar has stated that the letter dated 18 August 2010 does not bear her signature. It is submitted that thus, the Applicant has even forged the said letter, in support of his claim for commission.

7. I have considered the submissions made. *Prima facie,* it appears that the Applicant is not disputing about the receipt of the commission in excess of Rs.40 to 45 Lakhs, in his account by way of

commission from various financial institutions which had sanctioned the home loans to the buyers in the *Amanora Park Town.* The reliance of the Applicant is on letter dated 18 August 2010. However, that letter itself is disowned by the concerned officer Ms. Shilpa Potdar and at least, *prima facie,* at this stage, it can be seen that the prosecution case about the said letter being false and fabricated letter is *prima facie,* supported by the documentary evidence in the form of email dated 21 September 2021 by the concerned officer. Looking to these facts, in my considered view, proper investigation of the matter is of paramount consideration at this stage for which custodial interrogation of the Applicant is necessary. In the result, the Criminal Application is rejected.

8. At this stage, learned counsel for the Applicant has prayed for extension of interim protection which was operating in the case from 25 June 2021. In order to offer a fair chance to the Applicant, said protection shall continue for a period of two weeks from today.

C.V. BHADANG, J.