Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1613 OF 2022

Prasannakumar Nanaji Jagdale ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Harshad Palwe, for the Applicant.
Mr. Y. Y. Dabake, APP for the State.
Mr. Niranjan Mundargi, for the Intervenor.

CORAM: N. J. JAMADAR, J.

DATED : 21st JUNE, 2022

ORDER:-

1. This is an application for pre-arrest bail in CR No.97 of 2022, registered with Sarkarwada Police Station, Nashik, for the offences punishable under Sections 420 and 406 of the Indian Penal Code, 1860 ("the Penal Code").

2. The indictment against the applicant is that the applicant had known Dr. Smita Shivarkar, the first informant. The applicant induced the first informant to repose confidence in him. The applicant represented that he was dealing in the stock market as a share-broker. The applicant made the first informant to initially deposit a sum of Rs.5,00,000/-, by way of margin money and thereafter a sum of Rs.38,06,850/- on the pretext of investing the said amounts in securities. However, the applicant did not invest the said amounts and instead purchased a flat at Nashik, in his own name. The applicant assured the first informant that he would later convey the flat in her name.

3. The first informant further alleged that the applicant represented her that he would divorce his wife and solemnize marriage with the first informant and also take care of her ailing mother. Believing the representations of the applicant, her mother and maternal aunt were also made to transfer huge amounts in the accounts named by the applicant. Representing that there was a profit of about Rs.50,00,000/- in the trading of shares, the applicant diverted a sum of Rs.19,97,644/- towards brokerage charges. Eventually, noticing something amiss, the first informant obtained the statements of account, which revealed that there was a net loss of Rs.24,51,579/-. The applicant refused to transfer the flat and make good the amount which the first informant, her mother and maternal aunt were induced to part with.

4. The learned Counsel for the applicant submitted that the first informant has suppressed material facts. Though, the fact that the applicant purchased a flat out of the funds made available by the first informant was not sought to be seriously controverted, yet it was urged that the applicant had, in turn, transferred a sum to the tune of Rs.20,50,850/- to the account of the first informant and her family members. The applicant therefore deserves an opportunity to bring all these facts to the notice of the Investigating Officer. The liberty of the applicant is, therefore, required to be protected.

5. I am not inclined to accede to the aforesaid submissions on behalf of the applicant. The allegations in the FIR make out a strong *prima facie* case of both cheating and criminal breach of trust, in distinct context. *Prima facie,* it appears that the first informant was made to part with a huge amount by luring her of sumptuous return. However, the amount was not utilized for the said stated purpose and instead the applicant allegedly acquired a flat in his own name. There are further allegations of repeatedly making false representations and inducing the first informant and her relatives to deliver property.

6. In the backdrop of the nature of the accusation, custodial interrogation of the applicant seems indispensible to unearth the fraud in all its facets and trace the amount, which the first informant and her mother and maternal aunt were defrauded with.

7. Hence, I am not inclined to exercise the discretion in favour of the applicant.

The application stands rejected.

[N. J. JAMADAR, J.]