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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1677 OF 2022

Chola Mamutty S/o C. Moidutty .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Mithilesh Mishra i/b Agastya Desai for the Applicant.
Mr.S.H.Yadav, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.
DATED : 24th JUNE, 2022

P.C:-

1. The applicant is apprehending his arrest in C.R.No.29 of 2022 registered with M.H.B.Police Station on 21/01/2022, invoking Section 420 of the IPC.

2. The case of the prosecution is that the informant is a Member of 'Sri Vashista Credit Souhardha Sahakari Limited'. In the year 2020, the society decided to develop a housing project for it's members and the society was in lookout for loan. When the inquiry was being made about loan availability, Mr.Ramkumar Narayan Appa, introduced the informant to a retired Judge, who introduced him to the applicant.

On the informant contacting the applicant about his profile and nature of work, he introduced himself as Indian Financial Representative of Tokoshima Investment Corporation (TIC), Japan. Impressed with his profile, the informant approached the Board of the society and took their authorisation to represent the society to avail loan. Further, the applicant had given offer letter of Tokoshima Investment Corporation for project funding dated 14/03/2021, which contain a narration that the Management of Tokoshima Investment Corporation, registered and incorporated in Japan under the regulation of the Central Bank of Japan, have accepted to offer the total required funds for the ongoing and existing project of the company.

The applicant also handed over Project Financing Agreement for availing loan from the Corporation. The TLC agreed to lend a sum of Rs.159 Crores to the society, subject to certain terms and conditions.

3. As per the agreement, the society had to furnish the bank guarantee to avail the loan and the Corporation was to assist the society by referring them to a well-known, trusted, reliable and credible loan security.

The applicant handed over the Loan Term Sheet to the informant on behalf of the Corporation and asked him to take signature of the concerned person.

4. On 16/03/2021, the informant transferred the sum of Rs.6,71,000/- through D.D. to the account of the applicant and,

thereafter, a further sum of Rs.3,35,000/- on 18/03/2021. Further, Rs.7,87,650/- and Rs.39,60,000/- were transferred to the applicant vide RTGS.

5. The applicant addressed a letter to the society directing to pay 3.35% commission on the fund amount arranged from the Corporation and assured that there will be no expenses till disbursement of the loan.

Despite the aforesaid payment, since the loan was not disbursed in favour of the society, the applicant gave a letter titled as 'Acceptance Comfort Letter', issued by Mitsubishi UFJ Trust and Banking Corporation. Since the amount did not come, the complaint came to be lodged.

6. The learned counsel for the applicant would submit that the applicant is completely innocent as he himself was appointed by Tokoshima Investment Corporation and whatever amount was received by him, was transmitted by him to the Corporation.

My attention is invited to the bank account where the amount has been credited, but when particularly asked how the amount was further divested, the learned counsel for the applicant is unable to provide any information. The learned A.P.P., however, state that out of the amount received from the informant to the tune of Rs.57,54,150/-, the amount has been disbursed in favour of Najma Sharafat Ali (Rs.9,90,000/- SBI account), Suryalal Chakma (Rs.9,90,000/-) and Chandramani Bedi (Rs.9,90,000/-).

When inquired as to who are these entities, the learned counsel for the applicant states that they are known to the Corporation. In any case, there is no existence of the Corporation as on date, since it's mail account and address/contact numbers are no longer available.

7. In the aforesaid circumstances, it is necessary to ascertain to whom the amount has been transferred, since admittedly it was received by the applicant on behalf of the Corporation. This definitely warrant a custodial interrogation. The application is, therefore, rejected.

(SMT. BHARATI DANGRE, J.)