IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1952 OF 2021

Ashok Lakhan Gupta .... Applicant

versus

State of Maharashtra .... Respondent

…....

- Mr.Kaushik M. Mhatre a/w Vinayak Sawant, Advocate for Applicant.
- Smt.J.S. Lohokare a/w P. H. Gaikwad, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 25th JANUARY 2022
(through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.30/2021, dated 30/01/2021, registered with Kasarwadvali Police Station, Thane, under sections 420, 406 r/w 34 of the Indian Penal Code.

2. Heard Mr.Kaushik M. Mhatre, learned counsel for the Applicant and Smt.J.S. Lohokare, learned APP for the State.

3. The FIR is lodged by one Anant Sakharam Bhoir. He has stated that he has land at village Naglabandar, near creek bearing survey No.212/4, 212/12, 212/15, 211/3. The total area was 44 Gunthas. The informant wanted to raise construction in the form of resort and jetty. For that purpose he needed permission from Maritime Board. He was in search of somebody who could help him and get the permissions. Accordingly, one of his friends Bharat Pawar brought Nishchit Kumar Raviraj Shetty and the present Applicant to the informant's house in January 2012. Both of them were introduced as the persons who would do this job. Both of them represented to the informant that they had connections in the central ministry and they had done work related to CRZ. Both of them assured to do his job. They also told the informant that they had resorts and hotels in India and outside. After a couple of days again Applicant and Nishchit Shetty came to the informant's house. They went to the site. Both the accused including the Applicant told the informant that he would be

required to spend Rs.2.50 Crores. They asked for documents related to the land. The informant was agreeable to that because he was assured of the job being done. The informant borrowed cash from his friends and relatives. He also transferred certain amount from the bank account. The informant paid Rs.1,39,00,000/- in cheque. The amount through cheque was transferred in the account of co-accused Nishchit. According to the first informant he paid Rs.86,10,000/- in cash to the Applicant Ashok Gupta and Nishchit Kumar. Thereafter he continuously pursued this matter with the Applicant and his co-accused. However, they were avoiding to answer. Their office was found to be closed. On their behalf one Gautam Umakant Mhatre was assuring the informant that his money would be returned. But neither of the accused including the Applicant returned the money and permission was not obtained. Therefore the informant was cheated. As mentioned earlier, he had paid Rs.86,10,000/- in cash and Rs.1,39,00,000/- in cheque. Thus entire amount was misappropriated by the Applicant and his co-accused. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant is not the main accused. The main accused is Nishchit Kumar. The entire amount has gone in his account. He was arrested on 25/06/2021. Learned counsel further submitted that the Applicant's wife's account was freezed in connection with some other offence and the investigating agency is connecting these two facts with the present crime. He submitted that no amount is given to the Applicant in this case and therefore no offence is committed by the Applicant. Learned counsel submitted that he has received Rs.1,98,000/- in the account of his wife and the Applicant is ready to deposit that amount.

5. Learned APP opposed this application. She submitted that the investigation has revealed that the Applicant has received amount in cash and it was deposited in his wife's account and therefore his complicity is very clear.

6. I have considered these submissions. As far as the allegations in the FIR are concerned, there are clear averments

that on every occasion the Applicant was present with the co-accused Nishchit Kumar. Therefore he has played a major role or even an equal role in making false inducement to the informant that they could obtain permission for which certain amount was required. Based on this inducement the amount was taken. As submitted by learned counsel for the Applicant, the Applicant has admitted that he has accepted Rs.1,98,000/-. Therefore to that extent, his involvement is clear. In other words, the Applicant was a party to the entire offence.

7. In this view of the matter, custodial interrogation of the Applicant is necessary. It does not matter how much percentage of the entire amount has gone to the Applicant. The fact remains that the Applicant had made inducement and had received money in this context. Therefore no case for grant of anticipatory bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)