IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1877 of 2022

Bhagwanishankar Nilkanth Wagle .. Applicant
Versus
The State of Maharashtra .. Respondent

…

Mr. Mahesh Rajpopot with Akshit Kothari for the applicant.
Mr.S.V.Gavand, APP for the State.
PSI Abhimanyu from Samata Nagar police station.

CORAM: BHARATI DANGRE, J.
DATED : 21st JULY, 2022

P.C:-

1 At the outset, the learned counsel for the applicant has placed on record the order rejecting his application by the Addl. Sessions Judge on 23/6/2022.

2 The applicant is apprehending his arrest in a C.R. registered in the year 2022 which invoke Section 406, 420, 467, 468, 470, 471 of IPC.

The FIR came to be registered pursuant to a complaint lodged by the complainant, to the effect that he has invested certain amount with the present applicant which was towards the catering business, but this amount has been misappropriated. The details of the payments are contained in the complaint, by stating that on 21/3/2016, a cheque of Rs.10 lakhs was given to the applicant and further, a cheque of Rs.Five lakhs was given in the name of Deshi Bites i.e. the name and style of the business which was being operated by the applicant. He was informed that an enterprise known as 'Supreme Caterers' is desirous of selling their business and if their catering business has to be expanded, it would be profitable to purchase the said business for Rs.2 crore 70 lakhs. It was decided that Rs.80 lakhs would be contributed by the applicant and similar amount would be invested by the applicant, and as far as the balance amount is concerned, loan would be obtained. The complainant agreed to contribute sum of Rs.65 lakhs on the pretext that Rs.15 lakhs was already available with the applicant. The complainant was assured that he would be made partner in the said firm. An agreement was executed on 28/8/2018, and the complainant specifically state that he has parted an amount of Rs.65 lakhs, some in cash and some by way of cheque. Another cheque of Rs.15 lakhs was given by the complainant to the applicant on the pretext that he was to get work of diamond company. When he made necessary inquiries, he was found that no such business is proposed. The complainant contacted Bhaskar Shetty of Supreme Caterers and he was informed that though the deal was fixed for Rs.2.70 crores, an amount of Rs.80 lakhs has been paid to him. The copy of the agreement was also shown to the complainant, which mention the name of the applicant and his father. He was conscious that his father had already expired 7 to 8 years back, and then he realized that the amount has been obtained by him for such a fraudulent transaction. When he questioned the applicant, some blank cheques were issued to him and on presentation, they were dishonored. The complainant has given the details of the cheques, by which the amount was paid to the applicant and he alleged that he has been duped to the tune of Rs.80 lakhs.

2 The learned counsel for the applicant would submit that the complaint was lodged by the complainant in the year 2019 itself and when specifically asked, the learned APP Mr.Gavand state that upon the complaint being received, the statement of the complainant as well as the applicant came to be recorded and the applicant assured to repay the amount to the complainant and therefore, the offence was not registered.

3 It may be correct that the complaint was lodged in the year 2019, but since there is no compliance of the undertaking that he would repay the amount, the offence has been registered since the case of the complainant is, he has been cheated by the applicant. The document which is placed on record in form of an agreement between the Supreme Caterers and the present applicant along with his father, admittedly do not bear the signature of the father, but this is the very document on the basis of which the applicant projected to the complainant that he is

overtaking the business of Supreme Caterers and demanded an amount of Rs.80 lakhs from him and Rs.65 lakhs was transferred to him by cheque and cash.

In the wake of the aforesaid, since the *prima facie* case of cheating has been made out, the applicant deserve custodial interrogation.

Application is rejected.

(SMT. BHARATI DANGRE, J.)

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