IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2276 of 2022

Omprakash Mishra s/o Mahatam Mishra .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Mukesh Mishra i/b Lawmatics India for the applicant.
Mr.S.V.Gavand, APP for the State.
PSI Shri Ram Kundgir from Tulinj police station present.

CORAM: BHARATI DANGRE, J.
DATED : 22nd AUGUST 2022

P.C:-

1 Heard learned counsel Mr.Mishra for the applicant and Mr.Gavand, learned APP for the State.

2 The applicant is apprehending his arrest in connection with C.R.No. 370/2022 registered with Tulinj Police Station. On 6/8/2022, his application filed before the Sessions Court came to be rejected.

3 Perusal of the complaint filed by one Lal Babu Shah is to the effect that one Manoj Kumar Mishra, owns a shop of Refrigerator and since he was desirous of purchasing one, he approached him. The price of the Refrigerator was Rs.13,500/-

and he paid the amount in three instalments. After one month, Manoj Kmar Mishra assured him that he can avail loan on the refrigerator and asked him to get his passbook. Accordingly, the complainant produced his passbook belonging to State Bank of India, and the applicant was taken to one Satish Enterprises by one Satish Tiwari, where his thumb impressions were taken. He was informed that he will receive an OTP, which will be informed to Satish Tiwari.

It was informed that after some time, an amount would be received in his account. However, when the amount was not received, he made inquiries with Satish as well as the present applicant and they delayed the response. After one month, he received a message from the IDFC Bank, making inquiries about the date of repayment and he was surprised as he had never borrowed any amount and it was informed by IDFC that he had purchased the mobile of Rs.19,000/- and one inverter of Rs.20,000/- and on which loan was borrowed in the name of the present complainant. He was then directed to the present applicant who is an employee with Satish Enterprises and he assured him that he will repay the amount. He was informed that the amount which was borrowed by way of loan by using his bank papers was distributed between Omprakash Mishra, Manoj Mishra and Satish. The complainant kept on insisting for the amount to be repaid for clearing of the loan, but the accused persons did not redress his grievance, which constrained him to approach the concerned police station. Mr.Gavand has placed on record the statements of various persons recorded during the course of investigation and he submit that it is not only the informant, but 70 persons have been duped in a similar fashion and the list of such persons is received from the Bank.

4 Mr.Gavand has placed on record statement of several individuals which specifically take the name of the applicant and it is alleged that the papers of the persons affected were obtained by the present applicant and one Shubham Mishra and he was informed that loan was passed.

After obtaining the OTP, the amount of loan was siphoned off by the accused. 12 such statements implicate the present applicant.

5 Apart from this, the learned APP has also placed on record the account details of the wife of the present applicant Seema Omprakash Mishra and right from 5/7/2020, there are various entries in her account from Satish Enterprises. The entries correspond to the loan amount which have been obtained in the name of various customers and there are huge sums extending upto Rs.50,000/-.

6 It is apparent from the statements which are recorded that persons who wanted to obtain small loans for buying certain things from the shop were roped in and in their names, by obtaining their account numbers, loans were availed. When

particularly asked, the learned counsel for the applicant states that as far as the wife is concerned, that is a different transaction, but he is unable to give any plausible explanation. In the Anticipatory Bail Application filed by Seema Mishra, her statement is, she is an illiterate lady and her bank account is managed by present applicant who is her husband.

7 In the wake of the above, since prima facie it is seen that the applicant's name has been taken by the persons whose statements are recorded and the Investigating Agency is in the process of recording the statement of other persons, the custodial interrogation of the applicant is very much necessary.

Though the learned counsel for the applicant make a categorical statement that he will settle with all the persons, meaning thereby that he has admitted that loans were obtained, there is a huge amount and the bonafides of the applicant cannot be tested at this stage.

Considering the aforesaid, application is rejected.

(SMT. BHARATI DANGRE, J.)

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