IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRI. ANTICIPATORY BAIL APPLICATION NO. 2564 OF 2021

Ronak Dilip Oswal ..Applicant
Vs.
The State of Maharashtra ..Respondent

Mr. Seoul Shah, for the Applicant.
Ms. M. R. Tidke, APP for the Respondent / State.
Mr. Ganesh Bhujbal, for the Respondent No.2.

CORAM : C.V. BHADANG, J.
DATE : 3 FEBRUARY 2022
(Through Video Conferencing)

P.C.

. The Applicant, apprehending arrest, in connection with investigation of Crime No.135/2021 of Police Station Samarth, Pune City, under Section 406, 420 and 323 r/w. 34 of IPC, is seeking anticipatory bail.

2. I have heard the learned counsel for the parties.

3. The aforesaid crime is registered on the basis of the complaint lodged by Arshad Tamboli who claims to be friend of the Applicant. The allegation is that the Applicant and his mother co-accused

Sangita Oswal had requested the first informant for financial accommodation as the Applicant had suffered losses in his business. According to the first informant, he had paid total amount of Rs.80 to 90 Lakhs in cash to the Applicant and his mother, apart from Rs.10 Lakhs towards the purchase of the Mercedes Car belonging to the Applicant. According to the first informant, although the registration papers of the car were handed over to the informant by way of security, the Applicant and his mother managed to sell the car to a third party and thereby had cheated the first informant.

4. According to the learned counsel for the Applicant, the first informant had paid an amount of Rs.25 Lakhs by way of RTGS entry which amount has been returned to the first informant by a RTGS entry on 20 January 2021 of which record is produced at page No.36 of the Application. It is submitted that the Memorandum of Understanding (MoU) dated 22 February 2021 was got executed under coercion and duress for which a N.C. is registered against the first informant. It is submitted that the Applicant or his mother had never received an amount of Rs.80 to 90 Lakhs from the first informant. It is also pointed out that the first informant has issued a notice under Section 138 of the Negotiable Instrument Act (N. I. Act) in respect of dishonour of cheques, as mentioned in the MoU.

5. I have considered the submissions made. A specific query was made to the learned counsel for the Complainant as to how Complainant could manage to pay a sizable sum of Rs.80 to 90 Lakhs in cash to the Applicant to which, there is no satisfactory reply. It is also not known whether any such amount is shown in the account books or Returns of the informant. *Prima facie,* there appears to be an entry of Rs.25 Lakhs under which first informant had paid an amount to the Applicant which has been returned as per RTGS entry dated 20 January 2020. In so far as the execution of MoU is concerned, the Applicant claims that it was executed under duress and the first informant has already taken recourse to the remedy of issuing notice under Section 138 of N. I. Act in respect of the dishonour of cheques as mentioned in the MoU. The co-accused who is mother of the Applicant has been granted pre-arrest bail by the learned Sessions Judge. *Prima facie,* in my considered view, the dispute, if any, is of a civil nature.

6. Learned APP submitted that the Applicant has reported to the Investigating Officer and has cooperated with the Investigating Agency. The Applicant was protected by interim order dated 29 October 2021.

7. In the result, the following order is passed.

ORDER

(i) In the event of his arrest, in connection with investigation of Crime No.135/2021 of Police Station Samarth, Pune City, the Applicant be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(ii) The Applicant shall report to the Investigating Officer on 10/2/2022 and 11/2/2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer and shall cooperate with the Investigating Agency.

(iii) The Applicant shall not tamper with the prosecution evidence/witnesses.

(iv) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.