rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2619 OF 2022

Cherag Neriosang Bamboat	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Vikramjeet Siram a/w Omkar Bangar for the Applicant.
Mr.Aabad Ponda, Senior Advocate a/w Jugal Kanani, for the Intervenor.
Mr.H.J. Dedhia, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 14th October, 2022.

P.C.

1] The Applicant is apprehending his arrest in connection with CR No.1030/2022 registered with Worli Police Station, which invoke offence punishable under Sections 406, 411, 420, 504, 506 read with 34 of the Indian Penal code.

Application filed by the Applicant seeking similar relief before the Sessions Judge, Mumbai, came to be rejected on 14.09.2022 and hence the Applicant has approached this Court.

2] Heard the learned counsel for the Applicant Mr.Vikramjeet Siram, learned senior counsel Mr. Aabad Ponda for the Intervenor and the learned APP Mr.H.J .Dedhia for the State.

3] The subject CR came to be registered on the complaint filed by one, Smt.Vandana Watsa, a divorcee residing in Worli, Mumbai.

She narrate that while she was working in the Times of India as Programming Head, she became acquainted with the present Applicant who was working as Make-up Artist and she remained in touch with him since then. In December, 2020, she received a phone call from the applicant when he put up a proposal before her for investment in his make-up products business and assured her heavy returns in the form of profits.

For the first time on 24.12.2020, she transferred an amount of Rs.7,00,000/- in the ICICI bank account of the Applicant and this amount was acknowledged by him on a Rs.100/- bond paper. She was paid the profits on account of said investment to induce her to invest further. She further invested a sum of Rs.7,20,000/- on assurance that this would yield her more profit. On being convinced that her investment would fetch her good returns, she further invested a sum of Rs.7,50,000/- with the Applicant on 18.02.2021. The amount already invested by her was also carry forwarded. All the amount invested by her was acknowledged by the Applicant on the stamp papers and since the investment was through bank transactions, they are clearly reflected through bank entries.

It is the version of the complainant that one Rakesh Shetty was introduced to the complainant as a partner in the Makeover Academy which was to be floated by the Applicant and she was induced to invest further amount in the said Academy. Since she was given an impression that Rakesh Shetty is investing more amount in the Academy and would be gaining more profits, she was persuaded to invest more amount.

The longish FIR narrate the details of payments made by the complainant from time to time and give bifurcation of the amount of Rs.2,01,05,492/-. At the end of the day, when she realized that neither any returns are coming, nor she has earned any profits and on realizing that she has been duped, the complaint came to be lodged that amount invested by her was to the tune of Rs.2,01,05,492/- and she was cheated. The complaint was lodged against the Applicant as well as his mother and Rakesh Shetty.

4] In the statement recorded during the course of investigation, the complainant has culled out details of various investments at her instance, but when she asked the present applicant and Rakesh Shetty to transfer 30% shares in the company, as assured, in her name, they refused to do so on the pretext that she has failed to deposit further sum of Rs.50,00,000/-. She was informed by the Auditor that the company account with HDFC Bank and personal account of the Applicant were freezed and if she did not make further payment of Rs.50,00,000/- she would be deprived of the profit and shares. Somehow she was induced to pay further sum of Rs.33,00,000/- by cheque and she was asked to clear the deficit amount. She was told by the Applicant that co-accused Rakesh Shetty has committed a fraud to the tune of Rs.3 Crores and was removed from the company. When she asked for her amount back, she was asked to approach Rakesh Shetty. Another Director of the company Villie Bamboat, mother of the Applicant, also refused to respond to her frantic calls for return of money. Rakesh Shetty issued her two cheques of Rs.17,00,000/- and Rs.30,00,000/-, which however, were dishonoured.

She specifically recorded her statement to the following effect.

" That, from December 2020 up till now, Chirag

> Bambot, Willy Bambot and Rakesh Shetty, by making conspiracy between themselves, showed inducement to me that Chirag Magical Makeover Academy has 12 to 13 Franchises, they have a big business, and a huge profit would get from the business of the academy, and by creating illusion that Rakesh Shetty has invested money in the Academy, and he would get profit, Shares and Directorship and also by showing inducement to me that I would also get profit in the Academy's business, shares and directorship, motivated me to invest a total amount of Rs.2,01,05,492/-, and in consideration of the said amount, I was not given profit, shares and directorship, and thereby Chirag Bambot, Willy Bambot and Rakesh Shetty have financially cheated me to the tune of Rs.2,01,05,492/-, and hence my lawful complaint against them."

The allegations in the complaint are fortified by various receipts/ documents which are placed alongwith the Application.

The payments made are reflected through bank transactions and there is no dispute about the fact that the amount was invested by the complainant with the Applicant on the pretext of opening a Makeover Academy.

5] The Intervenor has placed on record compilation of documents which include statement of amount transferred by the complainant to the Applicant from 24.12.2020 to 26.07.2021 and further to Chirag Magical Makeover. It is apparently clear that the amount over Rs.2 Crore was pumped in by the complainant with the Applicant and his project and floated by him and investment agreement was also executed with assurance contained therein. Contractual Agreements are placed on record in respect of the investments made by the complainant from time to time.

6] There cannot be any dispute about the payments being received by the Applicant. He has filed an Affidavit-cum-Undertaking where he has mentioned about the settlement arrived at with the complainant and made following statements :

> "3. I, say that after the discussion it has been decided that an amount of Rs. 2,00,00,000/- (Rupees Two Crore Only), would be paid by me to the informant within a period of four years via postdated cheques drawn from account of: M/S Cherags Magical Makeovers, bearing Account no 2360590131, Standard Chartered Bank, Dadar Branch, Mumbai 400028; issued in favour of Vandana Watsa. The aforesaid postdated cheques will be handed over to the informant on the day of tendering the present affidavit in court. Attached and marked herewith as EXHIBIT "A" is schedule detailing the particulars of the aforesaid postdated cheques.
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> 4. I, say that the aforesaid amount of Rs. 2,00,00,000/- (Rupees Two Crore Only), would be paid by me to the informant by paying Rs. 50,00,000/- (Rupees Fifty Lakhs Only) per year for next four years.
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> 5. I, say that till the time the aforesaid amount of Rs. 2,00,00,000/- is repaid, I will pay an interest or profit at the rate of 10% for first year and 20% p.a. for next three years of the pending amount, to the informant."

7] Apart from this, the Affidavit also categorically record that the interest or profit would be paid on a monthly basis by the 28th of each month and the said amount would be paid by post-dated cheques, which would be drawn from the account of M/s.Cherags Magical Makeovers, in favour of the complainant.

In Para 11 of the Affidavit, the Applicant has made following statement:

> "11. I say that I am fully aware that the present Anticipatory Bail in view of this present affidavit is being disposed off without touching the merits and therefore the essence of grant of Anticipatory Bail Application is consent of informant for the grant of Anticipatory Bail to me only on assurance of compliance of the undertaking filed by me before

this Hon’ble Court”.

However, admittedly, the said undertaking was not abided by.

8] The Applicant has two FIRs to his credit being two other crimes viz. CR No.492/2020 registered with Amboli Police Station and CR No.727/2022 registered with Bangur Nagar Police Station.

9] The specific case against the Applicant is that he forged the tax returns to reflect the profits so as to induce the complainant to invest amount. The said documents placed on record refer to the profit of Rs.9,34,40,478/- which was a manipulated figure and the whole attempt was to paint a rosy picture before the complainant so that she would invest amount into the ventures floated by the Applicant. The complainant though admit that she has received certain returns, but that is a meager amount of Rs.17,17,828/- through cheque payments/bank transactions. The intention on the part of the Applicant to cheat the complainant is apparent from the point when investment was induced with a fraudulent intention. The accusations definitely warrant custodial interrogation.

Application is, therefore, rejected.

[BHARATI DANGRE, J]