IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3468 OF 2022

Nitin Chandrakant Gaikwad ...Applicant
Versus
The State Of Maharashtra ...Respondent

Adv. Shekhar Jagtap i/b J Shekhar And Co. for applicant.
Mr. S.V. Gavand, APP for State.
API Suroshe, Goregaon police station is present.

CORAM: M. S. KARNIK, J
DATED: DECEMBER 19, 2022

PC:-

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for pre-arrest bail. The applicant is apprehending arrest in connection with C.R. No. 832 of 2022 registered with Goregaon Police Station for the offence punishable under sections 406 and 420 of the Indian Penal Code, 1860 and under sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

3. The complainant is one Smt. Shilpa Sharad Mittal. In the First Information Report (FIR), the main allegations are against

Sagar Nichite. The accused - Sagar Nichite is the principal director of the company called 'InCapital Management Pvt. Ltd.'. The allegations of the complainant are that Sagar Nichite had promised good returns on the amount invested by the complainant and therefore, the complainant invested an amount of Rs.1,45,00,000/- in the company. After the period of 3 months neither the invested amount of Rs.1,45,00,000/- was returned nor any interest was paid. The amounts were paid by the complainant during the period between September 2021 and October 2021. The applicant herein is one of the director in the company. The applicant claims that he himself is the victim of the scam which is alleged. According to the applicant, he has invested Rs.1,27,50,000/- for which he should have received returns is promised by the Sagar Nichite. The applicant also filed criminal complaint, in this regard, against Sagar Nichite. The learned counsel for the applicant vehemently submitted that the applicant had nothing to do with the present case as he himself is the victim and was lured by Sagar Nichite to invest money which will fetch attractive returns. It is the contention of the learned counsel for the applicant that Sagar Nichite has floated 7 companies and made gullible victims like the applicant as directors of the said companies. The entire operation was looked after by Sagar Nichite who has been released on bail.

4. The materials on record reveal that the applicant is the director of the said company. The amount was invested by him prior to the date of the offence alleged by the complainant. Nothing was invested by him during the period of the alleged offence. However, he has received a sum of Rs.2,36,40,000/- and which was Rs.1,08,90,000/- more than invested by him. It is, therefore, the case of the prosecution that this gives rise to the reasonable apprehension that the said excess amount are the proceeds from the amount invested by the complainant. Sagar Nichite has been granted regular bail. I had asked the learned counsel for the applicant if he is willing to secure some part of the amount invested by the complainant. The applicant expressed his inability. Having regard to the nature of the allegations, I do not find this is a fit case for grant of pre-arrest bail.

5. The application is rejected.

(M. S. KARNIK, J.)