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IN THE HIGH COURT OF JUDICATURE OF BOMBAY BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.38 OF 2023

Bhagirath Lakshmi Pandit APPLICANT

VERSUS

The State of Maharashtra and Another RESPONDENTS

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Mr. Kishorkumar B. Borde, Advocate for the applicant
Mr. A. V. Deshmukh, APP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 14th FEBRUARY, 2023

ORDER :

1. Applicant apprehends his arrest in Crime No. 5 of 2021 registered at Cyber Police Station, Jalgaon for offence punishable under section 420 of the Indian Penal Code and under section 66, 66 (c) and (d) of the Information and Technology Act.

2. Ganesh Laxman Nemade – informant received one whats-app message on 4th February, 2021 that his BSNL SIM card is expired and he was asked to contact customer care on phone No. 63699862865 immediately, else his BSNL SIM Card would be

deactivated within 24 hours. Thereafter, the informant contacted on said number. Unknown person on the other side, represented himself as employee of BSNL and asked the informant that if wants to continue his SIM card, he will have to do online recharge of Rs.11/0 on Recube Planet site. For doing said recharge, the informant was asked to continue said call. Believing the same, the informant did recharge of Rs.11 on Recube Planet URL. Said recharge was done from SBI bank account of the applicant No.33693439590 by using net banking. However, recharge was not done. Then the person on the call asked the informant to download Team Viewer QS and Automatically forwarded SMS apps from Play Store. Accordingly, the informant downloaded both the apps on his phone and informed the code in the said apps to the person on call. The informant was then asked to continue the call and operate net banking and do the recharge of Rs.11. Accordingly, the informant did recharge of Rs.11/- by using net banking of his SBI account. Thereafter, though the informant tried to discontinue the call, he could not do so. The informant even tried to switch off his mobile, but he could not do so because his phone was not operating from his end. The informant then realized that the person on the call has taken control of his mobile and he is being cheated. On getting bank statement, the informant realized that an amount of Rs.7,20,340 was transferred by the person on the call from his bank account.

3. Heard learned advocate for the applicant and the learned Additional Public Prosecutor for the State. Perused the papers of investigation.

4. It is transpired during the investigation that the applicant has played active role in the online fraud. Total amount of Rs.7,20,340/- of the informant is transferred and / or withdrawn by the applicant. From the said amount, installment of LIC policy of one witness is paid by the applicant and other co-accused persons, who are involved in online fraud and cheating. The applicant and his colleagues are from Jharkhand and Bihar and custody of the applicant is necessary for bursting the racket which is committing online fraud. During the course of investigation, since the applicant was not found at his residence, the Investigation Officer gave notices to his wife, brother and uncle and asked them to co-operate in the investigation. None of them have attended the police station and co-operated in the investigation.

5. There is sufficient material showing *prima facie* involvement of the applicant in the present crime. Custody of the

applicant is necessary for effective investigation.

6. In that view of the matter, the applicant does not deserve discretionary relief of anticipatory bail. The application is, therefore, rejected.

[NITIN B. SURYAWANSHI]
JUDGE

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