IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.623 OF 2021

Ashish Ashok Chadha @ Monu ...Applicant
vs.
The State of Maharashtra ...Respondent

WITH
INTERVENTION APPLICATION NO.953 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.623 OF 2021

Ashwinkumar Agatrao Kshirsagar ...Applicant
vs.
The State of Maharashtra ...Respondent

….

Ms. Tripti R. Shetty, for the Applicant.

Mr. Durgesh Rege, i/b. Mr. Subodh Pathak, for the Intervenor.

Mr. R.M. Pethe, APP for the Respondent State.

Mr. Umesh Shinde, API, Unit-3, G.C.1, EOW.

….

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 19 APRIL 2023

P.C. :

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in Crime No.20 of 2021 registered with Versova Police Station, Mumbai for offences under Sections 406, 420, 506(2) of the IPC.

2. Heard Ms. Tripti R. Shetty, learned Counsel for the Applicant, Mr. R.M. Pethe, learned APP for the Respondent State and Mr. Durgesh Rege, learned Counsel for the First Informant. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Ashwinkumar Kshirsagar. The facts narrated in the FIR indicate that the Applicant is in business of supplying junior artists. Some time in the year 2016, the Applicant told the First Informant to invest money and assured that he would give him 50% of the profit. The First Informant claims that from June 2016 till March 2017, he has given to the Applicant total sum of Rs.3,71,00,000/-, in addition, he handed over gold of over 120 grams to the Applicant towards business transaction, to meet medical expenses of his mother and to help wife of the Applicant to get job in the airlines, etc. It is stated that the Applicant did not return the money and the gold and when he demanded the money, the Applicant threatened to cause his death.

4. Learned APP states that after registration of the crime, the Applicant had issued cheque dated 20 December 2021 for an amount of Rs.3,71,00,000/-, which fact prima facie proves that the Applicant has acknowledged his liability.

5. The records reveal that there was some business transaction

between the Applicant and the First Informant. Learned Counsel for the Intervenor states that the said amount was paid in cash. There are no documents to indicate that the First Informant had paid to the Applicant an amount of Rs. 3,71,00,000/-. There is no material on record to show that such a large amount of Rs. 3,71,00,000/- was, in fact, withdrawn from the bank to show that the First Informant had any other source of income to pay such huge amount and that too in cash. The cheque, which was allegedly issued by the Applicant, was drawn on Honkong and Shanghai Banking Corporation Ltd., undisputedly the said Bank is closed since 2019. Moreover, the statement of the First Informant, which was recorded on 20 September 2020 by the police in the course of the investigation of another crime registered pursuant to the complaint lodged by the Applicant, reveals that the First Informant was in possession of some cheques issued by the Applicant herein. Considering the above facts, the possibility of a cheque being misused cannot be prima facie ruled out.

6. Considering the above facts and circumstances, this is not a case for custodial interrogation. The Applicant is on interim protection since 18 March 2021. The Applicant has reported to the Investigating Officer and has co-operated with the investigation. Learned APP states that investigation has been completed and the charge-sheet will be filed within four weeks.

7. Considering all the above facts and circumstances, this is a

fit case to exercise discretion under Section 438 of Cr.P.C. and, hence, the application is allowed on the following terms and conditions :

(i) In the event of arrest of the Applicant in C.R. No.20 of 2021 registered with Versova Police Station, Mumbai, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.20,000/- with one or two sureties to the like amount;

(ii) The Applicant is directed to report to the concerned Investigating Officer as and when required by the Investigating Officer.

(iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner.

(iv) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

4. The application stands disposed of.

5. Interim application, if any, stands disposed of.

(ANUJA PRABHUDESSAI, J.)