IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1767 OF 2023

Yogendrakumar R. Jaiswal ...Applicant

vs.

The State of Maharashtra ...Respondent

ALONG WITH
INTERIM APPLICATION NO. 2327 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 1767 OF 2023

Kamlesh Shivnarayan Jaiswal ...Intervenor

In the matter between

Yogendrakumar R. Jaiswal ...Applicant

vs.

The State of Maharashtra ...Respondent

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Mr.Niranjan Mundargi i/b. Mr.Randir Singh–Advocate for Applicant.
Mr.S.R.Agarkar – APP for Respondent-State.
Mr.Vikas Shivarkar – Advocate for Intervenor.
Mr.Krishna Kokani – PI – Unit 1 – Crime Branch – Thane City.

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CORAM : S. M. MODAK, J.

DATED : 3RD JULY 2023

P. C. :

1. Heard learned Advocate Shri.Mundargi for the Applicant, learned APP and learned Advocate for Intervenor – First Informant.

2. The First-Informant wants an intervention. His Interim Application is allowed.

3. There is an offence registered at Naupada Police Station – Thane City on 9th June, 2023 under Sections 420, 406, 465, 467, 468, 471, 506 read with 34 of Indian Penal Code, 1860 ["IPC"] on the complaint of one Kamlesh Jaiswal. It is against in all 6 persons. Present Applicant is Accused No.1. The present Applicant is his maternal nephew. The First-Informant intends to start a wine shop and he was in search of a licence. The present Applicant is having winery business at Nashik. He came to know about the desire of the First-Informant to start a wine shop. Accordingly, they met each other at Thane on 20th December, 2021 and the present Applicant informed him that the co-accused Sandeep Kokate intends to sell wine licence at the cost of Rs.6,50,00,000/-.

4. Accordingly, the First-Informant along with present Applicant met the arrested Accused Sandeep at Nashik. They have finalized the deal at rate of Rs.6,50,00,000/-. The First-Informant further alleges that he has paid the amount in installments on various occasions, sometime in cash and sometime it is by way of cheque. This went on till the time, the First-Informant realized that he was being cheated and proceeded to part away with the amount and on certain occasion, certain documents including the challans were shown to

him which were subsequently found to be forged one.

5. Firstly, the First-Informant received a letter on 29th January, 2022 in the name of Superintendent, State Excise – Raigad-Alibaug. They have refused permission for want of necessary details. When it was confronted to the present Applicant and arrested Accused – Sandeep Kokate, he told that all the details were not filled in and further, arrested Accused Sandeep told the First-Informant that an amount of Rs.1,00,00,000/- is required to be spent in the Mantralaya.

6. On that basis, the First-Informant further paid an amount of Rs.1,00,00,000/- to the present Applicant for the purpose of paying it to the arrested Accused Sandeep. In the meantime, copies of challan were sent to the First-Informant through whats-app by this Applicant. Finally, the First-Informant was called to Bombay from Uttar Pradesh. They met at Tulip Hotel, Kharghar, Navi Mumbai. One person by name Rohit Pawar was present who is another Accused. The signatures of the First-Informant and his son were taken. The First-Informant expressed doubt as to how they have completed the formalities not in the Government office but in the hotel. He was given some convincing reason.

7. Thereafter also, the First-Informant parted an amount of Rs.50,00,000/- and said Sandeep sent an acknowledgment for Rs.33,00,000/- through whats-app. This is the sum and substance of the allegation in the FIR.

8. An attempt is made to submit that this Applicant has no role to play except introducing his uncle with Sandeep Kokate and whatever he has done is only as a middleman and he is not concerned with the deposit of amount, procuring these challans and acknowledgment. Furthermore, it is submitted that all alleged forged documents are seized and my attention is invited to a report dated 19th June, 2023. This report was submitted before the Court of Additional Sessions Judge while hearing the Anticipatory Bail Application of this Applicant. Column No.11 describes documents which are seized, whereas, further chart shows how much amount is seized from the arrested Accused – Kirankumar Jagtap, Rohan More and Sandeep Kokate. In all, an amount of Rs.80,17,000/- was kept by the Applicant with him. It is there on Page No.8 which shows how the money is distributed amongst themselves. Without prejudice, learned Advocate for the Applicant has expressed desire to deposit that much amount with installments.

9. There is reliance placed on the observations in case of ***Mohd. Aleem V/s. State of U.P. & Anr.***[1] wherein in a bank fraud case, when the Applicant has shown readiness to deposit the amount of fraud, the Hon'ble Supreme Court has granted pre-arrest bail.

10. Whereas, learned APP submitted that the investigation papers discloses the involvement of the present Applicant and during the custodial interrogation of Accused Sandeep Kokate, the involvement of the present Applicant is confirmed. It is submitted that it involves number of persons and amongst themselves, they are having a chain. Whereas, learned Advocate for the Intervenor submitted that the First-Informant is uncle of the present Applicant and in Application, the Applicant has said about his relationship with the First-Informant and the earlier transaction. According to him also, the custodial interrogation is required.

11. Ultimately, the facts of the case are important. Merely because the Applicant has shown readiness to deposit the amount, it does not mean that Court should accept it. Ultimately, it depends upon the allegation and involvement of the Applicant. After going through the papers and the allegations, at this stage, it cannot be accepted that the Applicant has played only role of middleman of just introducing

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the First-Informant with the arrested Accused Sandeep Kokate. In fact, the allegations and the investigation papers discloses that his role is not limited only that of middleman. He has played much major role. Ultimately, how these forged documents are prepared, it needs to be unearthed.

12. So, I do not think that he deserves pre-arrest bail. Hence, order :-

<u>O R D E R</u>

(i) Application is rejected.

13. These are my *prima facie* observations.

14. Application is disposed of in the aforesaid terms.

15. In view of the above, Interim Application is also disposed of.

16. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]