IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2129 OF 2023

Krishnalal Ram Bachan Sharma ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Asif Kedar Singh, for the Applicant.
Smt. Ashwini Takalkar, APP for the Respondent/State.
Mr. Mahesh Jadhav, API, East Cyber police station.

CORAM : N. J. JAMADAR, J.
DATE : NOVEMBER 6, 2023

P.C.:

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

2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 28 of 2022 registered at East Region Cyber police station for the offences punishable under sections 465, 467, 468, 471, 419, 420 read with 34 of Indian penal Code, 1860 and sections 66(C) and 66(D) of the Information Technology Act, 2000.

3. The first informant is a Vice President of Axis Bank. On 25th November, 2022, the co-accused Hanuman Agarwal had called the first informant and stated that he had a current account and loan account with HDFC Bank. He would come to the bank at about 4.30 pm. The first informant asked him to contact Smt. Janvhi Kolte, Dy. Manager.

4. After the first informant returned from the meeting, he learnt that somebody contacted Smt. Kolte on her official email ID and forwarded a letter on the letterhead of Padham Steel Enterprises Private Limited bearing the seal of the company and signature of Hanuman Agarwal, stating that since cheque book was exhausted, money be transferred in three bank accounts by RTGS. Accordingly, the money was transferred to those three bank accounts. After the money was so transferred, Hanuman Agarwal, the Director of Padham Steel called the bank and informed that he had not requested for transfer of the overdraft amount of Rs. 25,94,649/- to the said three accounts.

5. The first informant realized that by sending email from fictitious account to the bank, its officers were deceived to transfer a sum of Rs. 25,94,649/-. Hence, the report. The applicant was one of the account holders to which money was transferred. A sum of Rs. 8,95,780/- came to be transferred to the account of the applicant.

6. Apprehending arrest, the applicant approached the Court of Session. By an order dated 1st July, 2023 the learned Additional Session Judge declined to exercise the discretion in favour of the applicant.

7. The learned counsel for the applicant, made an endeavour to

urge that the applicant is not the actual beneficiary of the transaction.

8. I am afraid to accede to the submission on behalf of the applicant. The investigation has revealed that the applicant had opened the bank account in which the amount came to be transferred and had personally collected the cheque book and ATM card kit. The communication received from ICICI indicates that the account No. 643801518616 to which the amount of Rs. 8,95,780/- was credited stood in the name of the applicant. The investigation has further revealed that out of the said amount of Rs. 8,95,780/- deposited in the account of the applicant a sum Rs. 4,46,000/- was immediately transferred to the account of one Shadab Ali Sayed and the balance amount was withdrawn in cash from ATM centers located out of Maharashtra.

9. In the backdrop of the aforesaid material, a very strong prima facie case is made out against the applicant and the custodial interrogation of the applicant is indispensable for an effective and complete investigation. I am, therefore, not inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands rejected.

2] It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)