IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2821 OF 2023

Sushilkumar Mahaveer Gorwade ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Nilesh Wable, a/w Stefy Dias and Umesh Mankapure, for the Applicant.
Smt. Ashwini Takalakar, APP for the State.
HC V. B. Gavade, Vishrambag Police Station, Sangli, present.

CORAM: N. J. JAMADAR, J.
DATED : 11th OCTOBER, 2023

ORDER:-

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

2. This is an application for pre-arrest bail in connection with CR No.495 of 2023, registered with Vishrambag Police Station, Sangli, for the offences punishable under Sections 406 and 420 of Indian Penal Code, 1860 ("the Penal Code").

3. The applicant allegedly represented that he was investing money in share market and earning lucrative returns. The applicant had held a workshop in a Hotel at Sangli, wherein he boasted about his skills in investing and earning huge returns. Believing the representations of the applicant, the first informant paid an amount of Rs.3,83,500/- by transferring the amount to the applicant's account maintained at Karmveer Bhaurao Patil Sahakari Patsanstha. On 20th November, 2021, the first informant again paid a sum of Rs.7,68,000/- for the purpose of investing to the applicant in the presence of his friends Ranjit Phalke and Jaywant Phalke. When the first informant demanded the return of investment, as promised, the applicant gave evasive replies. It transpired that, like the first informant, the applicant had deceived other persons also in a similar fashion. Hence the report.

4. The learned Counsel for the applicant submitted that the applicant had opened an account in the name of the first informant with SM Global. The amount which the first informant had paid was in fact credited by the applicant on 8th November, 2021 even before the first informant transferred the said amount. The applicant was induced to invest his own money as well as the money of the investors with SM Global run by Milind Gadhave and his associates. However, they committed default in repayment of the said amount alongwith return, as promised, and, therefore, the applicant had lodged a report against those persons in the month of October, 2022 itself. The applicant was thus a victim.

5. I find it difficult to accede to the aforesaid submissions. The fact that the applicant had induced the first informant and many investors to invest the amount is borne out not only by the allegations in the FIR but copy of the statement of account of the applicant. It indicates huge transactions in the account of the applicant. *Prima facie* it appears that the applicant induced many persons to invest amount by making promise of lucrative returns. It does not appear that the applicant invested the amount in the share market as promised. On the contrary, the amount was allegedly credited to SM Global.

6. In this backdrop, the contention on behalf of the applicant that he was, in turn, duped by SM Global operated by Milind Gadhve does not advance the cause of the applicant. The question as to whether the applicant was also a privy to the alleged fraud by SM Global warrants investigation. It seems that the applicant induced unsuspecting investors to part with huge amount by making promises of lucrative returns. Custodial interrogation of the applicant is necessary to unearth the fraud in all its facets, unmask the identity of the persons involved in the fraud and also ascertain the money trail. In the absence of custodial interrogation, the investigator would face a dead end and it would be prejudicial to the interest of the complete and effective investigation and the victims.

7. I am, therefore, not inclined to exercise the discretion in faovur of the applicant.

8. Hence the following order:

: O R D E R :

(i) The application stands rejected.

(ii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[**N. J. JAMADAR, J.**]