2023:BHC-AS:33635

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3009 OF 2023

Alok Sukhdev Pramanick ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Hare Krishna Mishra with Mr. Kunal Jha, Mr. Kailash Rathod, for Applicant.
Mr. S.H.Yadav, APP for State.
Mr. Nilesh Patil, API Amboli Police Station present.

CORAM: N.J.JAMADAR, J.

HEARD ON : 31 OCTOBER 2023
PRONOUNCED ON : 4 NOVEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.

2. This is an application for pre-arrest bail in connection with C.R.No.610 of 2023 registered with Amboli Police Station for the offences punishable under Sections 406, 420, 504 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositers (in Financial Establishments) Act, 1999.

3. M/s.Swami Krupa Business Solutions Pvt. Ltd. is a financial establishment. Ms. Sonali Bhandare and Mr. Ashish Lavate are the directors of the said financial establishment. The Applicant was working with the said financial establishment. Ms. Sonali Bhandare, made a representation to the first informant, who is sister of Sonali, that there are various schemes floated by the said financial

establishment which fetch lucrative returns. The first informant and her friends and associates had made investments in the said financial establishment during the period 2016 to 2022 and they wee given the returns.

4. The first informant alleged that in the month of June 2022, the applicant represented to the first informant that since he was working with the financial establishment, if investments were made through him, they will get more returns. Believing applicant's representations, the first informant claimed to have invested various amounts from November 2022 onwards, and those amounts were credited in the account of the applicant. The first informant, thus, claimed to have invested an aggregate amount of Rs.1,06,52,000/- through banking channels, cash and in the form of gold coins. The applicant did not return the amount, as promised. Time was sought on one or the other pretext. Eventually, when the first informant and her associates confronted the applicant, the latter threatened to implicate them in a prosecution with the assistance of his acquaintances, who were highly placed. Hence, the report.

5. It further transpired that, like the first informant, the applicant had induced Kalpana Makwana and 26 others to part with a sum of Rs.86,95,000/- and another person, Amit was defrauded to the tune of Rs.15 Lakhs.

6. Mr. Mishra, the learned Counsel for the Applicant submitted that it is a strange case where the directors of the company – Swami Krupa Business Solutions

Pvt. Ltd., are completely insulated and the applicant who is working as a driver with Ashish Lavate, director, has been framed up. It was submitted that the applicant had promptly transferred the amounts which were credited to his account to the first informant as well as other entities, including Dhruv Tours and Travels, of which the first informant is the owner and Sailee and Swati Narvekar are the employees.

7. Mr. Mishra submitted that out of the amount of Rs.1,06,52,000/- which the first informant has allegedly paid, the applicant has already transferred an amount of Rs.1,01,35,000/-. The first informant who is the sister of Ms. Sonali Bhandare, has lodged FIR by suppressing all the vital facts. In fact, the applicant was assaulted by the first informant, directors and their associates. Unable to bear the harassment, the applicant had attempted to commit suicide.

8. Learned APP, on the other hand, submitted that there is material to show that huge amounts were credited to the personal account of the applicant. If the investments were to be made with the financial establishment of which the applicant was an employee, there was no reason for the applicant to accept such huge amounts in his personal account. It was submitted that apart from the first informant, there are other victims who have stated that the applicant had induced them to part with the amount and they have also been deceived. Therefore, the custodial interrogation of the applicant is warranted. Learned APP further submitted that the fact that the directors of the financial establishment have yet not been proceeded against, does not

detract materially from the accusation against the applicant.

9. I have carefully considered the allegations in the FIR. The fact that the first informant's sister is one of the directors of financial establishment warrants greater scrutiny of FIR, even at this nascent stage. Nonetheless, the fact remains that there are documents which evidence the credit of the huge amount to the account of the applicant. Endeavour on the part of the applicant to explain away the credit of the amount to his account by pointing out further transfer of the amount to the account of the first informant and others, at this stage, is a matter which is in the nature of the defence of the applicant. The allegations are primarily in respect of the investments which have been made subsequent to November 2022. The endeavour to show that the total amount which came to be credited to the account of the first informant and other entities, who are alleged to be connected with the first informant and directors of the financial establishment, does not thus deserve acceptance unreservedly.

10. The Court cannot loose sight of the fact that the allegation is that apart from the first informant, other investors were duped. Investigating agency has identified the alleged victims who were induced to invest the amount by the applicant.

11. It is true that the investigating agency has not yet proceeded against the directors of the financial establishment. In my considered view, at this stage, that does not enure to the benefit of the applicant. Undoubtedly, the investigating officer is enjoined to investigate into the role of the directors of the financial establishment, nay

even the role of the first informant, as it is alleged that there are other investors who have been duped. In fact, the custodial interrogation of the applicant appears to be indispensable from this perspective as well. The custodial interrogation of the applicant would unveil the role of the directors of the financial establishment in the alleged fraud, unearth fraud in all its facets, the persons who are privy to the fraud, the *modus operandi* and the driving factor for accepting amounts in the personal account of the applicant.

12. In the totality of the circumstances, in my view, a thorough investigation is warranted, and for that purpose the custodial interrogation of the applicant is necessary.

13. For the foregoing reasons, the application deserves to be rejected.

14. Hence, the following order :

ORDER

(i) The application stands rejected.

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

(N.J.JAMADAR, J.)