VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3525 OF 2022

Rahul Sharad Menger … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.4597 OF 2022

Mahesh Bhagvanbhai Patel … Applicant
In the matter between
Rahul Sharad Menger … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Vishal Tiwari for the applicant in ABA/3525/2022.
Mr. Gaurav Parkar for the applicant in IA/4597/2022.
Mr. P. H. Gaikwad, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JULY 3, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.274 of 2021, registered with Alibaug Police Station, District Raigad, on 12th October 2022 for offences punishable under sections 420, 406, 465, 467, 468, 471 reads with section 34 of the Indian Penal Code, 1860, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. According to the prosecution, the informant is a builder. Two shops in his scheme at Shil-Phatta were sold to his sister-in-law for Rs.1,20,00,000/-. The said amount was due from her. On 25th March 2022, the applicant and co-accused approached the informant and assured them to arrange a loan from a bank. In June 2022, a loan of Rs.1,70,00,000/- was sanctioned to his sister-in-law Smt. Pravina Patel. As per instructions of the applicant and co-accused, the informant and Smt. Pravina Patel opened accounts to receive a disbursement of sanctioned loans. The applicant and the co-accused got the signatures of the informant and Smt. Pravina Patel on four blank cheques stating that such cheques are required to transfer the loan amount to another account and as a security for repayment of EMI and insurance.

3. On 12th July 2022, the informant received a message informing him of credit of Rs.1,20,00,000/- in his account and Rs.50,00,000/- in the account of Smt. Pravina Patel. Thereafter, he received messages of debiting Rs.24,00,000/- from his account and another account of Rs.12,50,000/- being debited. The amounts were transferred to the account of Jayant Gangal. An amount of Rs.20,50,000/- was debited and transferred to the account of Gurukrupa Company. The amount of Rs.17,20,000/- was transferred to the account of Star Trading Company, and the amount of Rs.16,80,000/- was transferred to the account of Meet Enterprises from the account of Smt. Pravina Patel. The informant, therefore, called co-accused No.2 about the transfer of amounts. He assured return of the amounts. Despite several assurances and promises, the accused persons failed to refund the amount. He, therefore, lodged a report.

4. The applicant applied for relief under section 438 of the Criminal Procedure Code, 1973, which came to be rejected.

5. According to the applicant, he is not connected with the offences. According to him, the amounts were transferred under the signature of the informant and his sister-in-law. According to him, the informant and her sister-in-law had signed RTGS forms, and thereafter, amounts were transferred to Gurukrupa Company, Star Trading Company and Meet Enterprises. According to him, essential requirements of offences alleged against the applicant are not fulfilled.

6. Per contra, the learned advocate for the victim and learned APP for the State submitted that Gurukrupa Company, Star Trading Company and Meet Enterprises accounts are situated in the State of Gujrat. On investigation, it is revealed that the accounts are in the name and control of persons who are acting as a Watchman or a Peon. Their statements indicate that they signed account opening forms and withdrawal receipts at the instance of a person of their company acquaintance. Therefore, custodial interrogation of the applicant is necessary to unearth the trail of crime money.

7. On perusal of the material on record, it appears the applicant was instrumental in getting a loan sanctioned to the informant and his sister-in-law. According to the prosecution, the informant and his sister handed over blank cheques to the applicant for loan purposes but said cheques were deposited in the fictitious account. In view of statements of the persons operating fictitious accounts in the name of Gurukrupa Company, Star Trading Company, and Meet Enterprises, custodial interrogation of the applicant is necessary to unearth the trail of crime money. The investigating agency or the applicant produced no material on record to indicate a transaction between the informant and his sister-in-law with Gurukrupa Company, Star Trading Company and Meet Enterprises. In the absence of any previous transaction, at this stage, it cannot be accepted that the informant and his sister-in-law transferred such a huge amount of Rs.66,00,000/- in the name of unconnected companies. Therefore, custodial interrogation of the applicant is necessary.

8. The anticipatory bail application is, therefore, rejected.

9. In view of the disposal of the anticipatory bail application, nothing remains to be adjudicated in the interim application. The same is disposed of.

10. At this stage, the learned advocate for the applicant prayed for grant of ad-interim relief granted during pendency of the present application. Considering the nature of the allegations, ad-interim relief granted earlier shall continue for two weeks from today.

(AMIT BORKAR, J.)