IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1592 OF 2023

1. Saudagar Bhai Pir Mohammad Shaikh
2. Aslam Bhai Saudagar Bhai Shaikh ….Applicants

VERSUS

The State Of Maharashtra And Another …..Respondents

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Mr. Sohail Subhedar h/f. Mr. N.S. Ghanekar, Advocate for Applicants.
Mrs. Uma Bhosale,APP for Respondents.
Mr. S.S. Bora, Advocate for informant.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 29th JANUARY, 2024

ORDER :

1. Applicants apprehend arrest in Crime No. 168 of 2023, registered with Chandajira Police Station, Jalna, for the offences punishable under Sections 406, 420, 468, 470, 471, 504, 506 read with 34 of the Indian Penal Code.

2. FIR is lodged by Sandip Singhal, who runs Bhavika Ispath and Alliance Company at Jalna, which is dealing in the business of scrap. Saudagar Bhai Pir Mohammad Shaikh and Aslam Saudagar Bhai Shaikh (for short 'accused') met informant and gave proposal for opening of company for doing scrap

business. Accordingly, on 15.12.2021 informant opened Bhavika Ispath and Alliance Co.Ltd, and started business of sale and purchase of scrap articles. Accused used to provide scrap to informant’s company, through their company. Informant used to supply scrap to steel companies situated at Jalna and in other parts of India. Within a short span, turn over between informant and accused reached up to 10-12 Crores. At the instance of accused goods were supplied to informant’s company from Vaijapur, Himayatnagar and other places. Due to increase of work, accused closed company at Jalna. They started transacting with informant through mobile. Accused contacted informant on cell phone and demanded amount of Rs. 10 Crore for the purpose of tender of scrap. Since, accused gained trust of informant, informant gave amount of Rs. 7,23,72,710/- in installments. He transferred said amount in various bank accounts at the instance of accused. However, accused did not send goods to informant. In spite of repeated pursuation accused refused to return the amount or send the goods. Then informant realized that accused had opened bogus bank accounts and in collusion with other accused persons they cheated informant and have committed criminal breach of trust. Hence, he lodged FIR.

Bhagyawant Punde

3. Heard learned advocate for applicants, learned APP for respondent and learned advocate for informant. Perused the investigation papers.

4. Perusal of investigation papers, *prima facie*, reveals that applicants have committed criminal breach of trust and cheating by initially gaining trust of informant. Initially, applicants regularly transacted with informant and gained his confidence.

5. The intention of of applicants to deceive informant appears to be there since inception. After gaining confidence of informant, applicants assured informant to supply scrap material and made him deposit total amount of Rs. 7,23,72,710/- in seven bank accounts i.e. Ambika Enterprises, Greenarch Logistics, Evergreen International, Safan Traders, Mahadev Enterprises, Luck Enterprises and Naaz Traders. After receipt of said amount applicants did not send scrap and refused to return the amount. Investigating agency has freezed amount of Rs. 2,72,42,516/- from these seven accounts, so also amounts in other accounts standing in the name of Sambodhan Bras Pvt. Ltd., Shivamit Suppliers Pvt. Ltd., Palanhar Scrap Pvt. Ltd., Royal Enterprises, Mahammad Afsar, Dariya Times, Universal Trading,

Safan Traders, Arshad Mohammad Nijam, Quick Database, Vats Multi Trading and Nijam Jahid Khan. However, till trail of Rs. 4,51,30,194/- is to be ascertained from applicants.

6. Though, applicants were called by issuing notice under section 41 Cr.P.C., they have not appeared before the investigating officer. Thereafter, Sessions Court granted ad-interim protection to applicants during the period 02.08.2023 to 17.08.2023. However, during this period also applicants have failed to attend the concerned police station and co-operate in the investigation. In spite of notice, proprietors of firms in whose accounts informant transferred amounts as per say of applicants have failed to appear before investigating officer. It therefore *prima facie* appears that, there is strong possibility that applicants have created these fictitious firms/companies and diverted funds in those accounts, and siphoned of the amounts. Cell phone numbers given by applicants to informant claiming them to be their numbers are found to be standing in the name of other persons. However, from the said numbers applicants have been in contact with informant and whatsapp chats were exchanged between applicants and informant.

7. Investigation papers, *prima facie*, show involvement of applicants in serious offence. Possibility cannot be ruled out that applicants have taken help of others in commission of crime. Only applicants can provide necessary information required by the investigating officer. Custodial interrogation of applicants, in the facts of the present case, is necessary for effective investigation. Applicants, therefore, do no deserve discretionary relief of anticipatory bail. Application is therefore rejected.

[NITIN B. SURYAWANSHI, J.]

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