



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 ANTICIPATORY BAIL APPLICATION NO. 1844 OF 2024

SHUBHAM VISHNU PATHADE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Abhaysinh K. Bhosle
APP for Respondent/State : Mr. A.A.A. Khan
...

CORAM : ARUN R. PEDNEKER, J.
Dated : December 10, 2024

PER COURT :-

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant has approached this Court, apprehending arrest in connection with Crime No.13/2024 dated 11.9.2024 registered with Cyber Police Station, District Chhatrapati Sambhajinagar for the offences punishable under sections 3(5), 316(2), 318, 336(3), 338, 340(2) of Bhartiya Nyaya Sanhita, 2023 and 66-D of Information Technology Act.
3. This Court by order dated 28.11.2024 has granted interim protection to the applicant by observing in para Nos. 3 and 4 as under :-

"3. The learned counsel for the applicant submits that in the instant case, the co-accused were released on regular bail vide order dated 7.10.2024 passed by the learned Additional Sessions Judge, Aurangabad. In para 6 of the above order, the learned Sessions Court has observed as under :-

"6. The police have suo motto made a raid on the secret information and accused No. 1 was caught. It is alleged that he was inducing people and was opening the account in their names and operating those accounts to invest money in Crypto Currency and was earning profit illegally. It is pertinent to note that none of the persons in whose name the accounts have been opened have made complaint against any of the accused. So far as these accused are

concerned, the say of the investigating officer does not reveal anything as to in what manner these accused are involved. It is only revealed that accused No. 1 had disclosed the name of other accused and therefore, these accused are apprehended. It is pertinent to note that the entire investigation is in the form of documents, mobile phones and laptops are already seized, the communication to the concerned authorities freezing the account of accused No. 1 is already made and communication with the bank is also made. There are no specific allegations against these applicants/accused to show their involvement in the commission of offense along with accused No. 1. Moreover, the custody of these accused is not sought by the investigating officer for any purpose. Therefore, their detention in the jail would serve no purpose. Moreover, the absence of complaints from the persons in whose name the accounts have been opened or the accounts were operated, the commission of the offence as alleged is also doubtful, for there is no regulation so far as Crypto Currency is concerned. Therefore, no grounds are made out for rejection of bail application."

4. It is the case of the prosecution that the present applicant assisted main accused Dyaneshwar Pathade in opening the bank accounts of some persons so as to transact in their account. However, after substantial investigation, it is revealed that accused Dyaneshwar Pathade has taken the name of the present applicant. The present applicant has not opened any single account in his name for trading. There is nothing remained to be recovered further from him and in absence of any complaint by the bank account holder, I hold that the applicant is entitled to the relief of anticipatory bail."

4. It is the contention of the APP that the applicant is not cooperating in investigation and has not been giving mobiles phones and numbers by which different calls were made by the applicant. The learned APP on instruction of Investigating Officer submits that custodial interrogation of the applicant is, therefore, necessary.

5. The learned counsel for the applicant submits that those mobile phones and numbers, which are demanded by the I.O., are of the family members and friends and he cannot handover the mobile phones of third persons to the I.O. The learned counsel for the applicant submits that as far

as applicant is concerned, he has handed over all the material in his possession.

6. Considering the observations made by this Court in the order dated 28.11.2024 and in view of the fact that the applicant has surrendered all the material before the I.O. and that the applicant cannot hand over the possessions of the mobile phones of third persons to the I.O., I hold that custodial interrogation of the applicant is not necessary. If the I.O. is of the opinion that phones belonging to the other persons than the applicant are required, he can take appropriate steps as are available in law, but the I.O. cannot insisted upon the applicant to hand over those mobile phones of third persons.

7. In view of the above, the application is allowed and the interim protection granted to the applicant on 28.11.2024 is confirmed on the following terms :

i] The applicant shall attend the police station as and when required.

iii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iv] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

8. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

9. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the

observations made hereinabove.

10. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

ssc/