**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 1943 OF 2023

Mr. Kshitij Pradeep Katyayan
VERSUS
The State Of Maharashtra
...
Mr. Harshwardhan Pawar, Advocate for Applicant
Mr. B. A. Shinde, APP for Respondents
Mr. A. D. Ostwal, Advocate for Informant
...

CORAM : R.M. JOSHI, J
DATE : JULY 25, 2024

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 215 of 2023 registered with Peth Beed, Police Station, Dist. Beed for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code.

2. First informant has lodged report to the police stating that his employee Ajinkya Kharwadkar introduced by Applicant to co-accused Valmik Jagannath Wagh. It was also told to him by Applicant that this Valmik is helping him to get loan for his business and the amount of loan can be arranged for informant too. It is stated in the FIR that Valmik and present

Applicant visited the factory, shop and residence of the informant for the inspection of said premises. It is also alleged that co-accused Valmik had asked for amount towards the processing fees for obtaining loan of Rs. 5 crores. It is further alleged that from time to time amounts were deposited into the account of Valmik and sum of Rs. 1,90,000/- came to be deposited in the account of present Applicant. It was subsequently found that no loan was arranged by accused and that he is being duped for sum of Rs. 60,83,000/-.

3. Learned Counsel for the Applicant submits that Applicant is protected by interim order passed by this Court dated 12.12.2024. It is his submission that he has participated and cooperated in the investigation and as such, his custodial interrogation is not necessary. It is his further submission that Applicant is innocent and he is also victim of the crime. According to him, before lodging of the FIR Applicant has lodged complaint with Wakad Police Station against Valmik i.e., co-accused in the present crime. According to him, amount of Rs. 1,90,000/- was deposited into his account only for the reason that there was technical

difficulty for co-accused to take amount into his account and on the same day the said amount is transferred to the account of co-accused. He further submits that the transaction seen in the account of both accused is in respect of amounts paid by the Applicant to the co-accused and the some of amount received from him. Thus, it is his contention that custodial interrogation of the Applicant is not necessary. To support his submissions that once the accused appear before the investigating officer he deserves anticipatory bail, reliance is placed on the judgment of Hon'ble Supreme Court in case of ***Ashok Kumar vs. State of Union Territory Chandigarh, SLP(Cri) No. 9949/2023***.

4. Learned APP and the learned Counsel for the informant opposed the application on the ground that though it is sought to be claimed by the Applicant that he is victim of the crime, material placed on record indicates that he is in collusion with co-accused. In this regard, reference is made to the document placed before this Court along with application which is complaint of co-accused Valmik and possession of such

document with Applicant is sufficient to indicate that both are in connivance and have lodged complaints in order to escape from their liability by making allegations against each other. It is submitted that not only Rs. 1,90,000/- are appearing in the account of the Applicant, however, there are number of other transactions indicating the amount being transferred into his account by co-accused Valmik. It is submitted that even if for the sake of argument it is accepted that Applicant has only introduced co-accused with informant, question arises as to why he would go to Aurangabad and Beed for the inspection of premises. In this regard, it is sought to be argued on behalf of learned Counsel for Applicant that since the Applicant wanted loan from the co-accused in good faith, he helped co-accused in the said inspection in hope of receiving loan.

5. This Court is required to consider on the basis of material collected during the course of investigation and documents placed before the Court. *Prima facie* involvement of Applicant is seen in this crime. Mere claim of Applicant to be innocent would not

be considered. There is specific allegation against present Applicant that he is one who introduced the informant with co-accused. Further, the Applicant has not only introduced the co-accused but also participated in the inspection process of the premises belonging to the informant. In addition thereto, Rs. 1,90,000/- are received by Applicant into the account from informant. Even if it is accepted that for the reason of some technical issues in the transfer of amount to co-accused, the said amount is transferred in the account of Applicant and other entries are found in account of Applicant showing receipt of money from co-accused. There is no evidence placed before this Court to indicate transaction for obtainment of loan existed between Applicant and co-accused.

6. Apart from this, it is pertinent to note that even before filing of the FIR, a complaint is said to have been made by Applicant against Valmik with Wakad Police Station. He however gets copy of the complaint lodged by co-accused Valmik to the police. There is no plausible explanation for Applicant receiving such copy from person against whom there is complaint already

made to police. The only inference which can be drawn at this stage from this documentary evidence is that both accused persons are in collusion with each other and possibility of this complaint being lodged to avoid the liability cannot be ruled out.

7. Hon'ble Supreme Court in case of **Ashok Kumar** cited supra was dealing with case wherein the FIR was lodged after six years of the occurrence of the offence. In the light of this fact, when the accused therein had participated in the investigation process, Hon'ble Supreme Court found it fit to protect his liberty. In the instant case, interim relief was granted on the basis of material placed on record at ad-interim stage and on the basis of submission made across the bar. Now the entire picture is clear with investigation papers on record which suggests *prima facie* that Applicant is involved in this crime. This Court is of considered view that it could be case of conspiracy of the accused to commit crime and lodging of complaints is to avoid the liability. The collusion between accused is apparent on the face of record. Offence involves huge amount. It would be necessary for

the investigating agency to take custodial interrogation of the Applicant to ascertain as to how the yield of the crime is distributed amongst the accused persons.

8. Having regard to these facts, this is not a case to grant anticipatory bail. Hence, application stands dismissed.

(R. M. JOSHI, J.)

Malani