

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 284 OF 2024

Nitesh Kumar Yadav
Versus
State of Maharashtra

..Applicant

..Respondent

Mr. Nikhil V. Adkine for Applicant.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 9 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.2 of 2023, registered at East Region Cyber police station, Mumbai, on 03.01.2023, under sections 419, 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code and U/s.66(C) and 66(D) of the Information Technology Act, 2000.

2. Heard Mr. Nikhil Adkine, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by the Chief Manager, Bank of

India, Mulund (W). On 14.12.2022, she received a telephonic call purportedly from one Rahul Shah who claimed to be the Proprietor of H.R. Dyechem. He told the informant that he wanted to keep Rs.1 lakh in Fixed Term Deposit. He asked about the interest rate. The informant asked her colleague Shri. Madhukar Patil to look after this work as she was not well and, therefore, she went home. At about 5.45p.m. the bank officer Shri. Siddharth called her and told her that the said person was to come to the branch for completing the documentation. But, in the meantime, he made a phone call and told the bank officer Madhukar Patil that he wanted to transfer money through RTGS urgently. He even gave a cheque number which was issued in the name of Rahul Shah. The bank officer believed him and transferred Rs.28,11,800/- in the two accounts of ICICI bank and one of Kotak Mahindra Bank. Those accounts were in the name of Dhanamani Jal, Prabhas Bag and Piyush Rathore. Around 5.30p.m. the real Director of H.R. Dyechem and the real person Rahul Shah came to the bank and told them that they had received a message that the said amount was debited from their account. But they insisted that they had not

issued any such directions to the bank officer. It was realized that, somebody had called in their name and given those instructions to the bank and thereafter siphoned off the amount from the bank account of Shri. Shah. On this basis, the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that the applicant is not named in the F.I.R. There are no allegations that the applicant himself had contacted the bank officer. He submitted that the applicant is a poor labourer. He is 24 years of age. He has nothing to do with the offence. His bank account is not operated by him for a long period. His H.D.F.C. bank account is freezed and, therefore, he is unable to throw light as to how the amount, if any, was credited to his account.

5. Learned APP produced the investigation papers before me.

6. The investigation has revealed that, out of the said amount of Rs.28,11,800/-, Rs.9,23,700/- were transferred in the account held by one Prabhas Bag. Out of that amount of Rs.9,23,700/-, on that very day, at 4.00p.m. the amount of Rs.2

lakhs was transferred in the H.D.F.C. bank account of the present applicant. The transfer was proximate to the time when the money was siphoned off from the account of Shri. Shah. Thus, there is direct nexus and connection of the applicant's account for the purpose of siphoning off the amount. The applicant's connection is quite clear. The applicant's bank account was traced during the investigation and it was found that Rs.2 lakhs were deposited in his account which was the money involved in this crime. The investigating officer has verified the KYC documents and other details of the bank account of the applicant where the amount of Rs.2 lakhs was deposited. In this view of the matter, the applicant's involvement in the crime is made out. His custodial interrogation is necessary to trace the modus operandi, details, other associates connected with the present offence and also to verify whether any similar offences are committed. No case for protection U/s.438 of the Cr.p.c. is made out.

7. The application is rejected.

(SARANG V. KOTWAL, J.)