IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 505 OF 2024

Mohammad Asim Mohammad Shafi Mansuri
@ Mohammad Mansuri ..Applicant
Versus
The State of Maharashtra ..Respondents

Mr. Sunny Aaron Waskar a/w. Harshada V. Morey a/w. Shamish Marwadi i/b. Manish Kanojia for Applicant.
Mr. Nitin B. Patil, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 22 FEBRUARY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1190 of 2023 registered at Oshiwara Police Station, Mumbai, on 06.12.2023, under Sections 406 and 420 of the Indian Penal Code and under Sections 66 and 66(C) of The Information Technology Act.

2. Heard Mr. Sunny Waskar, learned counsel for the applicant and Mr. Nitin Patil, learned APP for the State.

3. The F.I.R. is lodged by one Virendra Yadav He has

VINOD BHASKAR GOKHALE Digitally signed by VINOD BHASKAR GOKHALE Date: 2024.02.23 15:24:57 +0530

stated that, he was knowing the present applicant since 2004. On 01.12.2023, the applicant came to the informant's garage. He started abusing the informant on the basis of some transaction of Rs.30000/-. While talking with the informant, the applicant took his mobile phone. The informant was expecting him to return that mobile phone, but he did not return his handset. The mobile handset was having the provision for two SIM cards. One of the SIM cards was in the name of Riyaz Mulani and the other SIM card was in the name of the informant himself. The informant had registered those SIM cards for registration with online banking transaction. Since the applicant did not return the mobile phone, the informant procured fresh SIM cards of those numbers. When the SIM cards were activated, the informant received the messages from the Google pay application. There were 18 transactions whereby the informant's amounts of Rs.2,37,098/- were transferred in the name of different persons. Out of which Rs.19999/- were returned by one S.K.Wahid. However, the informant lost his amount of Rs.2,17,099/-. On this basis, the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, it is not explained by the first informant as to how the applicant was knowing the password of his banking application. Without knowing his password it was not possible to transfer the amounts. He further submitted that the F.I.R. does not mention as to when the new SIM cards were activated. The F.I.R. mentions that, till 02.12.2023 the mobile phone was not returned. The suspicious transactions are also dated 03.12.2023 and, therefore, it was not possible that the applicant himself could have committed this offence. He submitted that, neither the offence U/s.406 or section 420 of the I.P.C. is made out. The offence under section 66 and 66(c) of the Information Technology Act is also not made out. He further submitted that, the informant had not made any previous complaints for losing his mobile phone to the acts of the present applicant.

5. Learned APP opposed these submissions and he produced the investigation papers before me. He particularly relied on the statement of one Dhiraj Parmar. The transaction No.16 mentioned in the F.I.R. is with this Dhiraj Jewellers and the

amount of Rs.5000/- was transferred in his account on 03.12.2023 at 5.15p.m. The statement of Dhiraj who was a Proprietor of that jewellers shop mentions that, on 03.12.2023 one customer came to his shop. He wanted a particular silver chain having a particular pattern. Dhiraj asked him to give him some advance. That person took Dhiraj's Gpay number and told him that he would send an advance in the evening. Accordingly, the said person sent Rs.5000/- through Gpay on Dhiraj's account. He also sent a screenshot on the WhatsApp account of Dhiraj Parmar. Dhiraj received Rs.5000/- in his account. However, he saw that the amount was sent from one Virendra Yadav (the informant in this case). Dhiraj got suspicious and he called the present applicant. He asked him, how the money had come from Virendra Yadav's account. At that time, the applicant told him that Virendra Yadav is his friend and he was giving that chain to the applicant as a gift. On 05.12.2023, the present applicant came to his shop and paid the balance amount of Rs.4500/- and took away the chain. Dhiraj prepared a bill to that effect. This witness Dhiraj has produced the screenshot of the WhatsApp chat between this witness and the applicant. He also produced the CCTV footage from his shop which showed the applicant taking that chain. The investigation papers contain the receipt of that silver chain and also the photograph from the CCTV footage of the shop. This statement, CCTV footage and the screenshot are quite incriminating and they strongly corroborate the allegations of the informant in the F.I.R. In this view of the matter, the applicant's complicity is made out. His custodial interrogation is necessary.

6. The application is rejected.

(SARANG V. KOTWAL, J.)