IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 606 OF 2024

Ganesh Bhoja Salian .... Applicant

Versus

The State of Maharashtra .... Respondent

Mr. Veerdhawal Kakade i/b Mrunal Jadhav, for the applicant.
Mr. Nitin B. Patil, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE : 5th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No. 316 of 2023 registered at Kalamboli Police Station, New Mumbai, on 23/12/2023 under sections 420 r/w 34 of the Indian Penal Code.

2. Heard Mr. Kakade, learned counsel for the Applicant and Mr. Patil, Learned APP for the Respondent-State.

3. The FIR is lodged by one Baljitsingh Pawar. He had a

transport business by name Deepak Transport Corporation, having office at Kalamboli. He was working as agent in the transport business. On 10/08/2023, he received a phone call from Rohan Verma who told the informant that he was the Manager in the company by the name Finotex Organic and Chemical Industries. He further told the informant that his company's goods were transported regularly from Boisar to Tamil Nadu and for that purpose he required vehicles. He asked the informant whether he was interested in supplying the vehicles. On 11/08/2023, the informant went to Rohan Verma's office at Andheri (East). He met Rohan and one lady by name Andry D'souza. They fixed the rate for vehicles. The informant accepted their proposal and an agreement was executed. Rohan Verma had taken Rs.1,80,000/- in cash to give him that contract for his company. Rohan Verma himself told the informant that his company was using vehicles of M/s Bhalchandra Transport and that the informant would have to book the vehicles from that transport company only. He gave visiting card of Bhalchandra Transport company to the informant. There was a mobile phone number mentioned on the visiting card.

The informant called that number. One Vivek was speaking from the other end. They discussed supply of vehicles. The informant agreed to a certain amount per vehicle. Thus, the informant was to engage or hire vehicles of Bhalchandra Transport company and supply them to Rohan Varma's company and in that process he was to earn commission. The FIR goes on to mention that on 13/08/2023, Rohan Varma called the informant and asked him to send a vehicle at Wada for loading the vehicle and transporting goods.. The informant called Mr. Vivek of Bhalchandra Transport . Rohan asked him to send receipt. The informant sent a receipt. Rohan in turn forwarded invoice copy, online bill etc. The informant told Vivek telephonically that the vehicle was loaded and had started for the destination.

4. Since this particular transaction was going ahead, Vivek asked the informant to send the money in advance. The informant sent Rs.1,13,700/- on 14/08/2023. After that for about 54 times the same procedure was repeated and the informant had paid Rs. 61,32,550/- to Bhalchandra Transport. The informant asked for his money from Rohan Verma's company. He was paid

Rs. 10,93,000/- but the total dues were Rs. 64,86,000/-. That amount was not paid to the informant. The informant made inquiries. He went to the office of Rohan Varma but he found that it was locked. He came to know that it was closed for many days. Then he went to Wada to search for Rohan Varma's Company, but even that company was not in existence. His inquiry led to the owner of the company Deepak Sharma at Boisar. He went to his office. There he met Deepak Sharma, the present Applicant and Kunal Singh. They threatened him and refused to pay the money immediately. On this basis, the FIR is lodged.

5. Learned counsel for the Applicant submitted that, in the FIR, there is only a passing reference to the Applicant's role. The allegations did not show that the Applicant had made any false representation or inducement to the informant. He is not the beneficiary. There is nothing to show that the money had come to his account.

6. Learned APP produced investigation papers before me.

He submitted that this is the modus operandi which the accused had repeated in the earlier offence as well. He submitted that neither Rohan Varma's Company nor Bhalchandra Transport Company was in existence. The Applicant had formed the said Bhalchandra Transport Company only for the purpose of committing fraud. In fact, there were no vehicles in existence, no goods were transported to Tamil Nadu. Everything was only on paper. Through this modus the amount was taken from the informant and it was misappropriated by the accused.

7. He relied on certain statements in the charge-sheet filed against the arrested accused. He also relied on the statements of the co-accused recorded during the investigation which describe the manner in which the offence was committed. He submitted that there are 3 antecedents against the Applicant and other co-accused. They are C.R. No. 40 of 2024 registered at Vanrai Police Station, Mumbai, C.R. No. 2585 of 2023 registered at Dungara Police Station and C.R. No. 49232 of 2023 registered at GIDC Police Station, Vapi. All these offences were for forgery,

cheating and criminal breach of trust.

8. I have considered these submissions. I have perused the statements of the arrested accused Vivek Karnale and Deepak Sharma. These accused have stated that there was no person by the name Rohan Varma. The two persons by the name Narenkumar and Surendra Sharma were using the names of Rohan Varma and Kunal Singh. Bhalchandra Transport Company was opened at the residential address of Vivek Karnale. Deepak Sharma has stated that the Applicant had incorporated six such dummy companies. Even the company by the name Finotex Organic and Chemical Industries was not in existence. It was existing on papers and the papers were registered by the present Applicant. The accused Vivek Karnale has stated that the Applicant had opened the bank account in the name of Bhalchandra Transport. The Applicant had used Vivke Karnale for that purpose. The Applicant had asked this accused Vivek Karnale to meet and make representations to the informant in this case. At his instance, he introduced himself as the owner of Bhalchandra Transport. The

entire business of Bhalchandra Transport Company was operated by the present Applicant.

9. Thus, it can be seen that it is a big fraud. It is a well thought out deep conspiracy. It is executed by the present Applicant and others thereby misappropriating the informant's money. For that purpose two companies which were not in existence were used and without there being any vehicle, the huge amount was taken from the informant for transporting goods purportedly from Maharashtra to Tamil Nadu. The offence is serious. The modus operandi is common in other cases as well, as submitted by learned APP. Therefore, custodial interrogation of the Applicant is necessary. No case for protection under section 438 of Cr.P.C. is made out. The application is rejected.

(SARANG V. KOTWAL, J.)