IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.726 OF 2024

Pradeep Motichand Gupta .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. R.D. Suryawanshi, Advocate for the Applicant.
Ms. Pallavi N. Dabholkar, APP for the Respondent-State.
Mr. Saurabh Butala, Advocate a/w. Harshad Sathe, for the orig.complainant.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.158/2024 registered at Mahatma Phule Chowk Police Station, Thane on 8.2.2024 under sections 406, 420, 465, 468, 471 read with 34 of IPC.

2. Heard Mr. R.D. Suryawanshi, learned counsel for the Applicant, Ms. Pallavi Dabholkar, learned APP for the Respondent-State and Mr. Saurabh Butala, learned counsel for the original complainant.

3. The FIR is lodged by Dinesh Shah. He has stated that he was a Government Contractor. He is 72 years of age and

is handicapped. He was knowing the Applicant's co-accused Shweta More. She told the informant that he could invest his money with her. She could get old flats with that money and after selling them, could earn profit for the informant. In January, 2021, Shweta took the informant to the present Applicant who was in the construction business. He had a project by the name Om Sai Builders and Developers. He had eight flats available. A transaction was entered into for purchasing those flats for Rs.78 Lakhs. The informant gave that amount to the Applicant's company. The Applicant sold one of those eight flats and paid Rs.12 Lakhs to the informant and thus earned his trust. On 12.10.2021, the Applicant and Shweta approached the informant and told him that there was a company at C-31, Dombivali MIDC and it was to be sold in an auction by a Bank. The Applicant and the informant went to the property. The Applicant told the informant that they were required to pay Rs.60 Lakhs as a token amount in S.B.I.. The informant paid that amount to him through cash and by transfer. On different pretexts the Applicant and Shweta took different amounts from the informant. The Applicant and Shweta told him that the company, by name, Singhania Fab Exports Private Limited at C-31, Phase-1, Dombivali (East) was available for purchasing at Rs.20 Crores and that the company could be purchased for Rs.10 to Rs12 Crores from S.B.I. in an auction. In November-December 2021 the Applicant and Shweta took the informant to that company. The bank officers were present there. They opened the seal and showed the company premises to the informant; who liked the company and decided to purchase it. The Applicant and Shweta suggested to the informant that they could purchase that company in the name of Jaswi Construction and for that the informant was required to invest Rs.5 to Rs.6 Crores. The informant was agreeable to that proposal and paid some more amount to Shweta. In January, 2022 they obtained huge amount from the informant purportedly in context of the sale of the machinery. On 5.2.2022, the Applicant and Shweta sent a sale-certificate(auction) of the State Bank of India on the informant's WhatsApp account. A copy of that letter was brought by the Applicant in the informant's office and was given to him. He demanded Rs.7.8 Crores. The FIR goes on to mention different occasions on which the money was paid by the informant. The Applicant and Shweta brought one more copy of the sale certificate dated 31.1.2022 and gave it to the informant. The informant paid Rs.7,53,82,400/- between October, 2021 to October, 2022 to the Applicant and Shweta. The Applicant and Shweta were avoiding to take further steps in the transaction. The informant, therefore, went to Nariman Point Branch of the State Bank of India and showed the copy of the sale certificate to the Bank Officers to verify its genuineness. He made an application through R.T.I.. He was informed that the sale certificate was forged and it was not issued by the bank. He realized that he was cheated and his money was misappropriated. The Applicant has diverted his funds somewhere else. He also came to know that said company Singhania Fab Expert Private Limited C-31, Phase-1, Dombivali (East) was purchased by the Applicant's brother Pankaj Gupta in the name of his company Rishabh Tuff on 17.9.2022. The informant realized that he was cheated. He confronted the Applicant. The Applicant and Shweta executed an M.O.U. on 28.8.2022. It was decided that they would pay Rs.1 Crore per month and some further amount on 28.2.2023 but the amounts were not returned. The cheques given for that purpose were dishonored and hence there was misappropriation of the amount. On these allegations, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant has not committed this offence. The offence is committed by his co-accused Shweta. He relied on an affidavit affirmed by the co-accused Shweta wherein she has accepted that she had taken the amount. He submitted that said affidavit shows that the Applicant is innocent. He submitted that the Applicant has not committed any forgery and he has not used that sale certificate. He submitted that a substantial amount is refunded by the Applicant.

5. Learned APP as well as learned counsel for the first informant opposed these submissions. Learned APP produced the investigation papers before me including copy of the forged sale certificate and the genuine sale certificate. She submitted that in the inquiry conducted before registering the FIR, the Applicant’s statement was recorded and at that time he has

accepted that he had used a forged sale certificate for showing the same to the informant to get investment from him.

6. I have considered these submissions and in particular I have seen the copies of the sale certificates. There is no dispute now that the sale certificates shown to the informant were the forged sale certificates. The State Bank of India has not issued such certificate dated 31.1.2022 or even 21.3.2022. The State Bank of India had not sold the property in question to Jasvi Construction as was claimed in those certificates. The accused, including the present Applicant, had used this particular sale certificate to extract the huge investment from the informant. The genuine certificate was issued by the State Bank of India on 29.9.2022 in favour of Rishabh Tuff, which was the company of the Applicant's brother in respect of the sale of property of M/s. Singhania Fab Expert Private Limited.

7. Thus, it is quite clear that the huge amount was extracted from the informant on false representation and on the basis of forged documents. The amount was misappropriated. The cheques issued purportedly for refunding that amount were dishonored. Therefore, it is quite clear that it is a well planned

conspiracy which was executed by the Applicant and the co-accused.

8. In this view of the matter, the custodial interrogation of the Applicant is necessary to find details of the offence. The allegations are serious. The amount involved is huge. The informant, who is 72 years of age and a handicapped person, is deprived of his huge amount. No case for grant of protection under Section 438 of Cr.P.C. is made out. The Application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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