IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1083 OF 2024

Bhavin Rameshchandra Shah .... Applicant

versus

The State of Maharashtra & Anr. .... Respondents

…….

- Mr. Vrushabh Savla, Advocate for Applicant.
- Ms. Poonam P. Bhosale, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.44/2024, dated 19/02/2024, registered with Kamothe Police Station, Navi Mumbai, under sections 420 r/w 34 of the Indian Penal Code.

2. Heard Mr. Vrushabh Savla, learned counsel for the Applicant and Ms. Poonam P. Bhosale, learned APP for the State.

3. The FIR is lodged by one Archana Verma. She has stated that she was in the business of direct selling (marketing).

During the course of her business, she got acquainted with Ninand Rane and Jignesh Gharat in the year 2022. In May 2023 Jignesh introduced the informant Archana to one Shweta Shah and Nikita Shrivastav. Ninad and Shweta told the informant that they were working with Reliance company in the Investment Department at Andheri Branch on the position of Senior Head. They had shown their identification cards. On 30/07/2023, Ninad and Shweta told her that some positions for working as Freelancers were available in their Investment Department. They told her that there were some schemes where they used to get monthly vouchers of the value of Rs.1 to 2 Crores and they were required to complete the transactions of that value from their account to the account of the company. After that, the company used to provide double the amount by way of price of the products which were to be purchased. The FIR thereafter goes on to mention that the informant was interested and she invested in that scheme. Apart from the informant, on her recommendation, her friends Rohit, Amol and Dr. Sudesh also invested in that scheme. In all, Rs.65,73,000/- were transferred to these accused either through the bank transaction or through the cash amount. Subsequently, nothing was returned to these victims. The informant came to know that Ninad and Shweta had shown forged receipts and identity cards. The victims realized that they were cheated and therefore, this FIR is lodged.

4. Learned counsel for the Applicant submitted that in the entire FIR there is not a whisper about the Applicant's role or even his name. One of the accused Shweta was his ex wife. The Applicant had got divorced from Shweta through a Judgment and Decree dated 04/05/2022 passed by the learned Judge, Family Court No.3, Bandra, Mumbai, in Petition No.F-3548/2021. It was a decree by mutual consent. Learned counsel produced a copy of the said judgment. It is taken on record and marked 'X' for identification. He submitted that the Divorce Decree was passed on 04/05/2022 and all the allegations in the FIR are from 30/07/2023. The Applicant has no connection with the allegations or with the main accused Shweta.

5. Learned APP opposed these submissions and produced investigation papers before the Court. She relied on the

statements of two witnesses namely Jignesh Gharat and Rishikesh Patil. Both of them have stated that out of the amount of Rs.9,48,000/-, paid by the informant Archana between August 2023 to October 2023, Rs.3,60,000/- were given in cash to the present Applicant at his house. Both the witnesses have stated the same fact. She therefore submitted that the Applicant has played an active role. She further submitted that there is another offence pending against him vide C.R.No.30/2022 at Mulund Police Station, under similar sections. She submitted that the investigation has revealed that even after their alleged divorce, they were in touch.

6. I have considered these submissions. As rightly submitted by the learned counsel for the Applicant there is no mention of the Applicant's name in the entire FIR. There are no allegations that the Applicant had played any role or had made any representation or had accepted any amount. The two witnesses referred to by the learned APP have stated about the cash amount which was given by the informant. It is the prosecution case that the amount of Rs.3,60,000/- was given in

cash to the present Applicant by the informant. However, the informant Archana has not stated so in her FIR. It was not her case. Therefore, considering all these submissions, it is quite clear that there is no material against the present Applicant in respect of the allegations. In this view of the matter, the Applicant deserves protection u/s 438 of Cr.P.C.

7. Hence, the following order :

ORDER

(i) In the event of his arrest in connection with C.R.No.44/2024, dated 19/02/2024, registered with Kamothe Police Station, Navi Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)