IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1116 OF 2024

Zahid Istiyak Malik .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Prem Pandey, Advocate a/w. Jainesh S. Mishra for the Applicant.
Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 23rd APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.212/2024 registered at Oshiwara Police Station, Mumbai on 12.2.2024 under sections 406, 409, 420, 465, 467, 468, 471 read with 34 of IPC.

2. Heard Mr. Prem Pandey, learned counsel for the Applicant and Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State.

3. The FIR is lodged by one Shahida Qureshi. She has stated that she wanted to go to Saudi Arabia for Hajj. Her daughter Alvira made search for online booking of tickets. She came to know about Fly Umrah International Tours and Travels, Jogeshwari. The informant's daughter Alvira went to the office with her friend Maijbeen Mansuri. They met one Aman Khan. She made inquiry with him. On 23.11.2023, the informant went to that office with her daughter Alvira. Aman Khan was present there. He told them that for two people, for a period of 15 days, the package was for Rs.1,46,000/-. The lodging was included. He told the informant to make payment of Rs.40,000/-. The informant's daughter transferred Rs.40,000/- in the account told by Aman Khan. On 7.12.2023, Aman Khan sent photographs of tickets showing bookings for two persons. On 14.12.2023 at about 6.00 p.m., the informant and her daughter went to that office for getting visa. At that time the Applicant was present with Aman Khan. They asked to make balance amount of Rs.1,06,000/-. They assured that they would get their visa within 2-3 days. The informant's

daughter then completed the balance payment. On 22.12.2023, the informant and her daughter went to the Applicant's office. At that time he assured that the ticket and the visa would be available on 26.12.2023. Both of them again went to the office in the evening, but, the office was closed. They made a phone call to the Applicant. He did not receive the phone call. On 5.1.2024, the Applicant sent visa on the informant's daughter's WhatsApp. That was the genuine visa. On 16.1.2024 the Applicant sent a PDF file showing the tickets. The informant inquired with the travel agent of Hasnain Tours and Travels, who was known to her. She herself had verified about the genuineness of the ticket. She found that said ticket was not genuine. On 26.1.2024, the informant went to the house of the Applicant asking about that. At that time, the Applicant and his brother Amjad assaulted the informant and her son. Therefore, she lodged an NC at Malvani Police Station under Sections 323 and 504 of IPC. After that the Applicant stopped responding. The FIR mentions that there were five other victims who were similarly cheated. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that false allegations are made against him. He referred to the allegations in respect of other victims, namely, Bilal, Naushad, Jamir and others. He submitted that Jamir had shown a blank receipt. There is no record to show that Jamir had made any payment to the Applicant. As far as Bilal is concerned, there was a dispute between them and the Applicant has filed a complaint asking for investigation under Section 156(3) of Cr.P.C. He has refunded the amount of other victims. Only in respect of one Naushad the amount remains to be refunded, which he is willing to refund. He added that the ticket booked for the informant was also genuine but only on the say of Hasnain the informant is assuming that the tickets were not genuine.

5. Learned APP produced a report of the police in this case. It is taken on record. She has also produced the investigation papers before me. She submitted that the total

amount of misappropriation is to the tune of Rs.76,09,026/- and there are seven victims.

6. I have considered these submissions. There are statements of other victims. Jamir has stated that in the month of November, 2023 he had given Rs.10,71,000/- for seventeen people for going to Umrah but the Applicant and Aman had not sent those seventeen persons to Umrah.

7. The statement of Safiul Rehman shows that he had paid Rs.4,67,026/-, however, he was not given the visa and the tickets. His amount was misappropriated. Similar is the case of the informant as mentioned earlier. One Naushad Shafi Mansuri has made similar grievance and he had lost Rs.4,43,000/-. That amount was misappropriated.

8. The police report shows the *modus operandi* of the accused. It shows that the PNR of the booking ticket was generated but since the amount was not received by the Airline Company, the PNR was cancelled. Sometimes the PNR was generated but it stood cancelled as the agency had not

issued the tickets within time. Most of the times, the PNR of the tickets were generated but since the payments were not made, the tickets were cancelled. According to the prosecution, those PNRs were shown to the prospective customers to show that the tickets were booked, to get money from them and thereafter the payment was not made to the Airline Company. Therefore, the actual tickets were not issued and the money was misappropriated.

9. Thus, there is definite material against the present Applicant. There are many victims in this case. The amount involved is more than Rs.76 Lakhs. Therefore, considering these aspects, the custodial interrogation of the Applicant is necessary. 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)

PRADIPKUMAR PRAKASHRAO DESHMANE

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