IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1262 OF 2024

Manish Sen ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Sujit Sahoo i/b. Rutuj Anand Warick for Applicant.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 6 MAY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.721 of 2023 registered at Chembur Police Station, Mumbai, on 22.12.2023, under sections 420, 465, 467, 468, 469, 471, 473, 474and 120-B of the Indian Penal Code.

2. Heard Mr. Sujit Sahoo, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by one Ritesh Patil. He has stated that he was working as a contract worker with the Thane

Municipal Corporation since April 2023. He had studied up to 9th standard. In January 2022 he was unemployed. He saw one advertisement near Thane railway station. There were phone numbers mentioned in that advertisement. Since he was in dire need of a job, he called one of those phone numbers. One person answered the call by saying that his name was Vaibhav. He made enquiries about the educational qualification of the informant. He promissed the informant to get a job as a Peon in a bank. The informant was asked to bring four photographs and biodata near Kunjvihar bus stop, Thane. The informant met that person in January 2022 and gave his four photographs and biodata. The said person also took copies of informant's Aadhaar card and PAN card. After that, said Vaibhav again called the informant and told him that, his work was done and for that purpose it was necessary to open an account in the bank. The informant was taken to Punjab and Sind bank at Masjid bunder in February 2022. A saving account in that bank was opened. The basic amount required for opening the account was paid by Vaibhav. It is further mentioned that, Vaibhav had taken the account number from the informant.

After a few days, Vaibhav again met the informant and told him that, there were some difficulties in operating that bank account and since his age had crossed the age limit for a job in a bank, it was not possible to give him that job; but instead he could get another job of peon in another office. Vaibhav told the informant that, for that purpose a new account was required to be opened in another bank. By saying this, he asked the informant to hold his PAN card and Aadhaar card in his hand. He made a video call. The informant was asked to tell his name and to show his PAN card and Aadhaar card. Vaibhav told the informant that, it was the procedure followed by the company for employing a person.

4. In April 2022, Vaibhav took him to Equitas Small Finance bank, Vashi, Navi Mumbai and opened a savings account. Again the initial amount was deposited by Vaibhav. The passbook, debit card and the cheque book which the informant had received, were taken away by Vaibhav. He had obtained signatures of the informant on the blank cheques. After that, when the informant called Vaibhav and asked about the job, he told the informant that he was not in Mumbai and that he would call him back on his

return. For about two months there was no contact. The informant again tried to call him, but Vaibhav was unreachable. The informant got suspicious. He went to Equitas Small Finance Bank, Vashi to make enquiries about his account. He was told that the bank account was still operational. On his request, the bank officers closed his account. Similarly, the informant closed his account with Punjab and Sind Bank, Masjid bundar branch.

5. In February 2023, the informant received a letter from the G.S.T. office, Mazgaon mentioning that the informant was called for enquiry because he was a Director of M/s. Magic Royal Bullion Pvt. Ltd. (hereinafter referred to as 'Magic Royal'). The informant was surprised because he had nothing to do with that company. When he went to G.S.T. office, he came to know that Vaibhav and his associates had opened one more bank account in Kotak Mahindra Bank, Chembur branch and had used the informant's forged signature and had transacted in crores of rupees in that bank account. The informant was served with a notice for recovery of the tax. The informant made enquiries with Kotak Mahindra Bank at Chembur. He was told that his account

was opened in April 2022 by mentioning that the informant was a Director of Magic Royal. At his request, the said account was closed. He was told that, while opening the bank account in Kotak Mahindra Bank, his address was shown at Kalbadevi; but he had nothing to do with that address. It was also informed that one Subhashkumar Tailor was another Director of Magic Royal and that Bhavarlal Jain and Rameshkumar Saroj were the shareholders of that company. All these persons were not known to the informant. The G.S.T. officers took search of the informant's house. They did not find any documents pertaining to that particular company in the informant's house. The evasion of tax was to the tune of Rs.23,99,19,500/-. All this was done by using the informant's documents and using his forged signatures. On this basis the F.I.R. was lodged.

6. Learned counsel for the applicant submitted that the investigating agency and the F.I.R. do not mention as to how that figure of evasion of tax was arrived at. The applicant is not the beneficiary. He is not named in the F.I.R. The applicant had nothing to do with the informant even as per the allegations in the

F.I.R. The applicant had appeared before the investigating agency and he is still willing to co-operate with the investigation.

7. Learned APP submitted that the offence is extremely serious. The investigation has revealed the applicant's complicity in the entire episode. She relied on the statement of the aforementioned Subhashkumar Tailor who was shown as another Director of the said company. She submitted that, there were transactions between Wixow Enterprises and the present applicant and the amount gone in his personal account was withdrawn by the applicant by cheque. A copy of the cheque, in the name of the present applicant for Rs.6 lakhs, is also a part of the investigation papers. She further submitted that, one phone number is mentioned behind that cheque. That phone number is connected with Magic Royal. Thus, the applicant is directly connected with Magic Royal and these fraudulent transactions.

8. I have considered these submissions and, in particular, I have perused the statement of Subhashkumar Tailor. His statement is important in the context of this case. He has stated

that, he had also studied up to 9th standard. He was residing at Bhayander (East). He was introduced to the present applicant by one Raju Singh who told him that a job of peon was available in the applicant's company at Navi Mumbai. Raju Singh took copies of Aadhaar card and PAN card of this witness Subhash Tailor and made an application. He took OTP number from this witness. He told Subhash that further formalities would be completed by the applicant. Subhash got acquainted with the applicant. Raju told him that he had to follow the instructions of the applicant and that the applicant would get a job for him. The Applicant took Subhash to a shop and asked him to hold his PAN card and Aadhaar card. He then made a video call. Subhash was asked to tell his name and was asked to hold his PAN card and Aadhaar card. The applicant told Subhash that, it was the procedure of the said company for giving employment. After two months the Applicant called him to Kalbadevi and told him to meet another person. That person told Subhash that he had to enter into an agreement for rent pertaining to a shop. Subhash telephonically enquired with the Applicant who told Subhash to follow the instructions of that person. Accordingly, Subhash entered into the rent agreement. Subsequently, in February 2023, Subhash also got a notice from the G.S.T. office. He was shown as a Director of Magic Royal. Subhash attended G.S.T. office. He came to know that the applicant and others had opened a bank account with Kotak Mahindra bank, Chembur, using his forged signatures and had entered into the transactions in crores of rupees in that account. Subhash was served a notice for evasion of tax. According to him, all the signatures purportedly made by him were forged in that connection.

9. Thus, it can be seen that Subhash's statement has striking similarity with the informant's case. Both of them were cheated by a common *modus operandi*. Both of them were asked to hold their Aadhaar card and PAN card and by making video call these false accounts were opened and transactions in crores of rupees were entered in the name of a fictitious company. The offence is quite serious. Both, the informant and Subhash were not highly educated and were in need of getting jobs. Taking advantage of their need to obtain jobs the accused had committed this offence. The *modus operandi* requires thorough investigation

which is not possible without custodial interrogation of the applicant. The applicant's connection with the entire offence is clearly spelt out through the F.I.R. and through the statement of Subhash. There is also an angle of money transaction in respect of Wixow Enterprises and the phone number behind the cheque which was used by Magic Royal. All these factors are interconnected. The conspiracy runs deeper. The offence is very serious. No protection can be granted to the applicant.

10. The application is, therefore, rejected.

(SARANG V. KOTWAL, J.)