IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2795 OF 2023

Rakeshkumar @ Ankit Shadilal Jatab ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. S. R. Pille, for the Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent No.1.
PC Goraksha Maruti Shephade, Crime Branch, Thane City, present.

CORAM: N. J. JAMADAR, J.
DATED: 1st APRIL, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This an application for bail in CR No.270 of 2023 registered with Mahatma Phule Chowk Police Station, Thane, for the offences punishable under Sections 120B and 420 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. Revannath Sohoni, the first informant, was in need of money to pay a loan installment. On 10th April, 2023 he requested his friend Sharad Bansode to lend some money. After a couple of days Sharad Bansode informed him that a person, who identified himself as Rakesh Kumar, had represented to him that if somebody lends his current account maintained with YES Bank he would pay Rs.20,000/- per month by way of compensation and for that purpose, the cheque book, ATM card and the mobile phone number linked with the account were to be delivered to him. After a couple of days, when the first informant went to meet Sharad Bansode, the applicant was present. At the instructions of the applicant, the first informant opened an account with YES Bank, Rambag Branch, Kalyan. The account details as well as kit and the sim card of the registered mobile number linked with the said account were delivered to the applicant 24th April, 2023.

4. The first informant further alleged that within a couple of days of the opening of the account, there were thousands of transaction messages on the e-mail of the first informant. Suspecting some foul play, on 28th April, 2023, the first informant blocked the mobile number linked with the said account and stopped the net banking facility also. Still, in two days i.e. 29th and 30th April, 2023 there were transactions aggregating to Rs.1,72,06,985/- in the account of the first informant. Thus, the first informant lodged a report.

5. During the course of the investigation, it further transpired that the applicant had obtained the credentials of the other witnesses and used their bank accounts. The applicant came to be arrested on 25th May, 2023.

6. Mr. Pille, the learned Counsel for the applicant, submitted that there is no material to show that the applicant had made any inducement to the first informant. Nor there is any evidence to show that the transactions reflected in the accounts of the first informant and the witnesses were made by the applicant. It was submitted that the applicant has been in custody since May, 2023. As the investigation is complete qua the applicant and the offence under Section 420 of the Penal Code entails punishment which may extend to seven years, further detention of the applicant is unwarranted.

7. In opposition to this, Mr. Jadhav, the learned APP, submitted that the applicant is the principal accused in the conspiracy to enter into fraudulent transactions by using the credentials and the bank accounts of unsuspecting persons. Huge transactions were shown in the bank accounts of the first informant and the other witnesses by surreptitiously using their credentials. Therefore, the applicant does not deserve to be released on bail.

8. *Prima facie,* it appears that it is a case of using the credentials of genuine account holders to enter into financial transactions with a design to mask the identity of the persons, who actually indulge in those transactions. The accusation against the applicant primarily rests on the statement of the first informant and the witnesses that they had delivered the bank documents and credentials to the applicant. Inviting the attention of the Court to the statement of Mr. Bijendra Tiwari, an official working with YES Bank, the learned Counsel for the applicant submitted that the record indicates that in the account of Fast Track Solutions a sum of Rs.80,00,000/- was credited even after the applicant came to be arrested. Therefore, the applicant cannot be attributed with the role of entering into fraudulent transactions.

9. Whether the transactions were entered into by the applicant by using the credentials of the first informant and the witnesses is a matter which merits adjudication at the trial. Ordinarily, those transactions can be said to have been entered into by the persons in whose name the accounts stand. It would thus be a matter of evidence to as to whether despite the first informant and the witnesses being the account holders, the transactions were effected by the applicant.

10. In the aforesaid view of the matter, since the investigation qua the applicant seems to be complete and the applicant has been in custody since 25th May, 2023, further detention of the applicant does not seem warranted. The apprehension on the part of the prosecution can be taken care of by imposing conditions.

11. Hence, the following order:

ORDER

(i) The application stands allowed.

(ii) The applicant be released on bail in CR No.270 of 2023 registered with Mahatma Phule Chowk Police Station, Thane, on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(iii) The applicant shall mark his presence at the Mahatma Phule Chowk Police Station on the first Monday of every alternate month between 10.00 am. to 12.00 noon for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

[N. J. JAMADAR, J.]