IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.914 OF 2024

Parvej Dastagir Sheikh … Applicant

Vs.

State of Maharashtra … Respondent

Mr. Sunil Pandey and Ms. Richa Gujar i/b. Mr. Raju Mandal for Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Mr. Ravindra B. Mandlik, Police Inspector, E.O.W., Thane City.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 16, 2024

P.C. :

. Heard Mr. Pandey, learned counsel for the applicant and Mr.Sonavane, learned APP for the respondent-State.

2. The applicant, in the present case, was arrested on 15.05.2023 in connection with FIR No.0138 of 2021 dated 30.06.2021 registered with Chitalsar Manpada Police Station, District - Thane, for offences under Sections 367, 406, 409, 420, 465, 468, 471 read with 34 of the Indian Penal Code, 1860.

3. The informant approached the police with a grievance that he was allured to part with substantial amounts of money paid to a company called 'Lend Ladder' as one of his acquaintances told him that the said company could arrange for purchase of immovable property. Since the informant was interested in purchasing immovable property at reasonable rate, the inducement given to the informant was that the said company was in the business of purchasing flats at low rates in Court conducted auctions pertaining to legal proceedings initiated by banks for recovery of their loan amounts. The first informant claimed that, after he

had parted with about Rs.17 lakhs, it came to light that the office of the said company had closed down due to a raid conducted by the Crime Branch. When he went to the office along with the acquaintance and even approached the police, it further came to light that at least 26 other such victims had been duped of substantial amounts.

4. The applicant was arrested on 15.05.2023 and it is claimed that he was merely an employee of the said company, having nothing to do with the inducement and allurement given to the informant and other victims. It was further claimed that the applicant, being merely an employee of the said company, had been wrongly roped in by the investigating authority.

5. The learned counsel for the applicant highlighted the fact that the applicant was not named in the FIR and that, he was subsequently arraigned as an accused person. By referring to the material on record, it was claimed that a strong *prima facie* case is made out in favour of the applicant and since he has already suffered incarceration for a period of about one year and six months, this Court may consider enlarging him on bail, particularly when charge is yet to be framed and the list of witness shows that the prosecution intends to examine 45 witnesses.

6. The learned APP, on the other hand, tendered a compilation, consisting of the say of the respondent and copies of the statements of witnesses recorded during the course of investigation. Attention of this Court was also invited to the list of criminal antecedents of the applicant mentioned in the say, showing that he has 5 criminal proceedings pending against him, including the present case. It was highlighted that the applicant had used different names, while committing such offences and that, in the present case, he had shown as if his name was *Asif Sayed*.

7. It was further submitted that the statements of the witnesses would indicate the active role of the applicant and that he had connived with the co-accused persons to dupe the informant and other innocent investors, thereby benefiting from such ill-gotten money.

8. This Court has considered the rival submissions in the light of the material placed on record. The statement leading to registration of the FIR does not appear to have named the applicant as one of the persons, who could be arraigned as accused. In fact, the name of the applicant does not feature as one of the named accused persons in the said FIR. The learned APP has claimed that the name used by the applicant, in the present case i.e. Arif Sayed can be found towards the end of the statement of the first informant, which led to registration of the FIR. But, this Court is unable to find any cogent material to show that the applicant had projected himself to be *Arif Sayed*, while his actual name is *Parvej Dastagir Shaikh*.

9. The applicant has conceded to the fact that, he was one of the employees of the said company but it is specifically stated that, since all payments were made in favour of the said company and the applicant is not even a beneficiary, no criminality can be attributed to him. This Court finds substance in the said contention, for the reason that the statement of the informant clearly indicates that the payments by cheque were made in the name of the said company. Therefore, a *prima facie* case is made out in favour of the applicant to claim that the allegations of allurement / inducement are not relevant insofar as the applicant is concerned.

10. This Court has perused the statements of witnesses recorded during the course of investigation. But none of the statements bring out any specific overt act on the part of the applicant, although reference is made to one Asif Sayed in some of the statements. Even with regard to

the said name, it is not alleged that any of the witnesses / victims were allured by the said person or that any amounts were directly paid to him. In this context, the learned APP sought to rely upon statement of a witness, Elria Fransis D'souza, who stated that one Asif Shaikh i.e. an advocate of the said company on 22.01.2021 made a phone call and told the said witness that further amount of Rs.1 lakh would have to be deposited. Even if that part of the statement is to be taken into account, the name referred to therein is *Asif Shaikh* and not even *Asif Sayed*. It is this name that, as per the prosecution, was used by the applicant in the present case and it is evident that such material falls short of showing a direct link with the applicant either as a person, who induced the informant / victim or that he could be said to be a beneficiary. Merely being an employee of the company, that has swindled huge amounts of money, may not directly lead to any criminality being attributed to such an employee.

11. The applicant has remained incarcerated since February 2023. The investigation has been completed and the charge-sheet has been filed. Charge is yet to be framed and the prosecution intends to examine 45 witnesses. There is hardly any possibility of the trial being completed within reasonable period of time.

12. In view thereof, the application is allowed in the following terms:-

(A) The applicant shall be released on bail in connection with FIR No.0138 of 2021 dated 30.06.2021 registered with Chitalsar Manpada Police Station, District - Thane, on furnishing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;

(B) The applicant shall cooperate with the trial Court for expeditious trial and he shall attend each and every date, unless exempted for reasons to be recorded in writing;

(C) The applicant shall report to office of the EOW (Banking Unit), Thane, on the first Monday of every month between 10 a.m. and 12 noon, during the pendency of the trial;

(D) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;

(E) Upon being released on bail, the applicant shall immediately, and in any case within a week, furnish the details of his active mobile number and residential address to the trial Court and update about the same, if there is any change.

13. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

14. At this stage, the learned counsel for the applicant prays for cash security till the surety is furnished.

15. The applicant is permitted to furnish cash security of Rs.50,000/- for a period of four weeks.

16. The bail application stands disposed of.

(MANISH PITALE, J.)