IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 486 OF 2024

Mithilesh Pandurang Naik ..Applicant
Versus
The State of Maharashtra ..Respondent

WITH
INTERIM APPLICATION NO. 1463 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 486 OF 2024

Mr. Randhir Singh for Applicant.
Mr. Vinit A. Kulkarni, APP for State/Respondent.
Mr. Rahul Sharma for Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 3 OCTOBER 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 1665 of 2022 registered at Oshiwara Police Station, Mumbai, on 29.12.2022, under sections 120-B, 406, 417, 420, 384, 385, 465, 467, 468, 469 and 471 of the Indian Penal Code.

2. Heard Mr. Randhir Singh, learned counsel for the applicant, Mr. Vinit Kulkarni, learned APP for the State and Mr.

Rahul Sharma, learned counsel for the Intervenor.

3. The F.I.R. is lodged by the first informant Sukhpreet Singh. He wanted to invest in mining business in Karwar, Karnataka. The main allegations in the entire F.I.R. are against one Asif Ahmed and the informant's friend Ravi Bakhru. The first part of the F.I.R. mentions that, Ravi Bakhru and the informant had close friendly relations. In 2015, the informant's friend Bhushan Kadam told the informant that he knew Asif and Ashfaq who were the brothers and who had lime-shell mine at Karwar Karnataka. They were looking for investors. The informant, his wife, Ravi Bakhru and his wife met Asif and Ashfaq along with their Manager Rafiq. The informant showed interest in investing in that business. The F.I.R. mentions that Ravi Bakhru and his wife Jaya also liked the business, but for some reason they told the informant they were not in a position to invest in that business, but suggested that the informant should go ahead and invest in that business. The informant invested in that business and spent some more amount in the transaction with Asif, Ashfaq and Rafiq. In all, he had given Rs.2,82,84,284/-. Initially, no steps were taken in executing the

Partnership Deed, but subsequently a Partnership Deed, showing informant as a partner, was executed on a stamp paper. In between, one Ruchi Gupta was added as a partner. The F.I.R. describes other transaction between the informant and Ravi Bakhru in respect of a different business venture. It is mentioned in the F.I.R. that the informant was tricked into forwarding some documents through e-mail. Subsequently, an F.I.R. was lodged against the informant himself for forging the documents, vide the MECR No.1 of 2022 registered at Juhu police station. While defending that case by filing anticipatory bail application, the informant came to know about further details. At that stage, the informant has named the present applicant as one of the conspirators with Ravi Bakhru, Jaya Bakhru and Asif. The F.I.R. then describes as to how the informant himself has not committed any offence of forgery. There is a vague reference to the applicant's name. It is mentioned that the applicant had also taken part in the conspiracy for removing the informant from that business. There are allegations that the applicant had accepted Rs.22 lakhs through a bank transaction and Rs.19 lakhs in cash and had entered into an MoU in respect of mining of minerals. But then, that money was misappropriated. There are allegations that the informant received the telephone call from an unknown number issuing threats. On this basis, the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, there are hardly any allegations against the present applicant in respect of the dispute raised by the informant against Ravi Bakhru and others. Before lodging this F.I.R., the informant had given a complaint to the police station officer, Andheri police station on 29.05.2022. In that complaint, there were allegations against the other accused, but there is absolutely no reference to the applicant's name at all. A request was made in that application that action be taken against Asif, Ashfaq, Ravi Bakhru and Jaya Bakhru. He submitted that there is nothing to show that the applicant had taken any part when Ravi Bakhru had made some representation to the first informant about their own new business transaction, for which, allegedly, Ravi Bakhru had taken money from the first informant. The transaction between the applicant and the first informant is a totally separate subject matter and if

there is breach of any terms it would give rise to civil dispute and will not be a criminal offence. The informant mixed up the two issues only because one F.I.R. is already pending against the first informant and by filing his own F.I.R. he is pressurising the present applicant.

5. Learned counsel for the informant submitted that the applicant had entered into an MoU with the informant on 19.12.2019; that was in the nature of supplying lime-shell extract from the mining business. For that purpose, Rs.40 lakhs were taken by the applicant, but he has not honoured that commitment; instead, he entered into a separate agreement with the applicant's co-accused on 13.09.2022. Since this was subsequent to the informant's complaint to the police on 29.05.2022, the applicant's name does not appear in that complaint. He submitted that, Rafiq and Ashfaq are now treated as witnesses. Ashfaq was assaulted in April 2024 and Rafiq was threatened telephonically on 15.07.2024 and, therefore, the applicant may not be protected.

6. Learned APP produced certain transcript of the conversation between the applicant and one Advocate from Karwar who was representing Asif. However, that transcript does not show any involvement of the present applicant with the allegations mentioned in the F.I.R. He submitted that the applicant is also a part of the conspiracy.

7. I have considered these submissions. The F.I.R. mainly is against Ravi Bakhru and the informant's transaction was with Ravi Bakhru. There is a reference to the partnership between the informant on one hand and Asif and Ashfaq on the other. However, with these transactions the applicant is not concerned. If the applicant has not honoured his commitment which he made through the document dated 19.12.2019 and if he had entered into the subsequent agreement with the co-accused on 13.09.2022, it could be, at the highest, a civil dispute for breach of contract. In any case, if it is the informant's case that it also involves a criminal offence, it is not the subject matter of the F.I.R. in the present case. The transaction was a totally separate transaction, for which, the informant is free to take action in accordance with law. As far as,

the present F.I.R. is concerned, the main allegations are against Ravi Bakhru, Jaya Bakhru and Asif. For that particular transaction, the applicant is not involved. They are totally separate transactions.

8. As far as, the allegations of issuing threats and assault on Ashfaq are concerned, a separate offence is already registered at Karwar which is being investigated. This also is a separate subject matter. If the applicant is involved in that offence, law will take its own course; as far as, those instances are concerned. The investigating agency in this case has not shown any definite material against the Applicant regarding the said assault and threats.

9. The present anticipatory bail application is in respect of the C.R.No.1665 of 2022 registered at Oshiwara police station and, as mentioned earlier, all these allegations pertain to the dispute between the informant and Ravi Bakhru, Jaya Bakhru and Asif. There are only vague allegations against the applicant and there is a reference to the separate transaction entered into by the

informant with the applicant. That transaction has nothing to do with the alleged inducement made by Ravi Bakhru and the complaint lodged by Ravi Bakhru against the informant.

10. Considering all these aspects, there are only vague allegations against the present applicant. Therefore, his custodial interrogation in this particular case is not justified. It is made clear that, all these observations are made only with respect to the present subject matter i.e. C.R.No.1665 of 2022 registered at Oshiwara police station. If the applicant is separately involved in any other transaction involving criminal offence, obviously, the police are free to take steps separately in those offences. With the result, in the present case, the applicant can be protected by anticipatory bail order.

11. Hence, the following order :

<u>O R D E R</u>

i) In the event of his arrest in connection with C.R.No. 1665 of 2022 registered at Oshiwara Police Station, Mumbai, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.

ii) The Applicant shall attend the concerned Police Station as and when called and shall fully cooperate with the investigation.

iii) The Application is disposed of.

iv) With disposal of anticipatory bail application, the interim application is also disposed of.

(SARANG V. KOTWAL, J.)