IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1581 OF 2024

Gautam Shivaji More ... Applicant
Versus
The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO. 2448 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 1581 OF 2024

Vasant Pandurang Sable ... Applicant
Versus
The State of Maharashtra & Anr. ... Respondents

******

Mr. Krishna Agarwal i/by Rahul D. Salve for the Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
None for the Applicant/Intervenor in IA/2448/2024.

******

CORAM: MANISH PITALE, J.
DATE : 2nd SEPTEMBER 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State. Although, there is an intervention application on record, there is no appearance on behalf of the proposed intervenor.

2. The applicant has approached this Court apprehending arrest in connection with FIR No. 0205 of 2023 dated 9th May 2023 registered at Dighi Police Station, Dist. Pimpri-Chinchwad,

for offence under Section 420 of the Indian Penal Code, 1860 (IPC).

3. The informant approached the Police stating that being a retired Deputy Director General of the Geological Survey of India, he was interested in investment and in that context, he was in touch with his friend one Narendra Bhagatkar. Both together approached the applicant, as an impression was given that the applicant was a successful entrepreneur associated with a Medicare Company, amongst other entities. An impression was also given that the Central Government and State Government of Maharashtra had given six to seven awards to the applicant, who was also running his own bank. It was allegedly indicated that handsome loan would also be arranged by the applicant. The statement of the informant then describes in detail how the applicant allegedly induced the informant and his son into investing substantial amounts with the companies associated with the applicant, amongst others, on the promise that the son of the informant would be made a Director in the company. According to the informant, despite having transferred huge amount of Rs.30,00,000/- by RTGS in the account of the company of the applicant i.e. Arogya Bharati, the promise of making the son of the informant as one of the Directors never fructified and hence, the informant realised that the applicant had duped him.

4. The learned counsel for the applicant submitted that civil disputes are sought to be given the colour of criminality. In that

regard, he referred to an agreement dated 27th October 2021 executed between the son of the informant and a company called Udyog Bharati, of which the applicant was shown as Director. He also referred to a tenancy agreement executed between a landlord and Arogyavat Medicare Private Limited, through its Director i.e. the applicant. It was submitted that the amounts to which the informant and his son had transferred, were pure investments made by them in their full senses in terms of the aforesaid agreements. In fact, steps were taken together by the applicant, informant and his son and even the said Mr. Bhagatkar, in pursuance of such an enterprise, thereby indicating that after certain disputes arose between the parties, the informant had chosen to approach the Police with a concocted case against the applicant. On this basis, it was submitted that since the dispute in the present case concerns documentary material and it has been *prima facie* demonstrated by the applicant that civil disputes are being given the colour of criminality, this Court may allow the present application, as the applicant undertakes to cooperate with the investigation.

5. On the other hand, the learned APP vehemently opposed the present application. He submits that another FIR was registered against the applicant by the aforementioned Mr.Bhagatkar bearing FIR No.1301 of 2023 dated 26th December 2023, after the subject FIR was registered. The said Mr.Bhagatkar has also alleged that the applicant induced him to part with substantial amounts of

money on false promises and inducements, thereby committing offences under Sections 406 and 420 of the IPC. The learned APP has also referred to the statement of the son of the informant recorded during the course of investigation, wherein it was stated that he gave an amount of Rs.10,00,000/- to the applicant on inducements given by him. A reference was also made to the statement of a lady, who approached the Police about having been duped by the applicant. It was submitted that the applicant has been using the aforesaid *modus operandi* to induce innocent investors into parting with substantial amounts on false promises, thereby indicating the basic ingredients of the offence under Section 420 of the IPC.

6. This Court has perused the material on record in order to appreciate the rival submissions. The thrust of the submissions made on behalf of the applicant is that civil disputes are being given the colour of criminality. On the other hand, the informant claims that the applicant induced him and his son to part with substantial sums of money on false promises, thereby demonstrating the essential ingredients of the offence under Section 420 of the IPC.

7. The two agreements on which the applicant placed much reliance need to be considered in order to appreciate the rival submissions. The agreement executed on 27th October 2021 between the son of the informant and a company called Udyog Bharati, shows that the applicant is shown as Director of Udyog

Bharati company. In the agreement, there is indeed a reference to a clause, which says that 10% of the profit would be given in pursuance of the business to be undertaken, as per the agreement. It is recorded that the son of the applicant invested Rs.10,00,000/- for the same. It is significant to note that the said agreement is executed with the company Udyog Bharati, of which the applicant is shown as a Director and there is no reference to the company Arogya Bharati, to which the informant has made repeated references. As regards the tenancy agreement executed on 2nd June 2022, a perusal of the same shows that it is executed between a landlord and a company called Arogyavat Medicare Private Limited, through its Director i.e. the applicant. Here again the name of the company is shown as Arogyavat Medicare Private Limited and not Arogya Bharati company i.e. the company indicated by the applicant. Be that as it may, this agreement refers to an advance of Rs.25,00,000/- paid in the context of the tenancy agreement.

8. It is the specific contention of the applicant that the amount "invested" by the informant was utilized for the tenancy agreement and therefore, there was no question of the informant being duped. It is also claimed on behalf of the applicant, on the basis of account statement of Arogya Bharati placed on record with the additional affidavit, that specific amounts were indeed spent from the said account for various purposes concerning the said business, in which the informant had allegedly invested. In the

first place, the tenancy agreement does not show Arogya Bharati as the company that is party to the agreement and secondly, the investigation papers brought to the notice of this Court show that the informant indeed transferred by RTGS huge amount of Rs.30,00,000/- into the account of Arogya Bharati and apart from that, at an earlier point in time i.e. on 9th November 2021 also, an amount of Rs.10,00,000/- was transferred by the informant into the account of Arogya Bharati.

9. The aforementioned documents that have come on record through investigation *prima facie* indicate that the informant was induced into parting with substantial amounts of money, transferred into the account of "Arogya Bharati", while there is nothing to show as to what investment the applicant made for the purposes of the purported joint business contemplated under the agreements. In fact, the informant has specifically alleged that such investments were made on a promise given by the applicant that he would make the son of the informant a Director in the company. The nature of allegations made by the informant coupled with the material that has come on record through investigation give credence to the theory that the applicant induced the informant and his son to part with substantial amounts on false promise of benefits, including directorship for the son of the informant. Apart from this, the statement of the son of the informant is also on record giving the details, as to the manner in which the applicant induced him into parting with an

amount of Rs.10,00,000/-.

10. Subsequent FIR registered at the behest of the said Mr.Bhagatkar, is also been registered, indicating similar *modus operandi* adopted by the applicant to dupe the said person also.

11. In the face of such material, no case is made out for granting anticipatory bail. The application is dismissed.

12. In view of the dismissal of the anticipatory bail application, the interim application is disposed of.

MANISH PITALE, J.