IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1680 OF 2024

Sanit @ Samit Kumar Sharma … Applicant
Vs.
State of Maharashtra … Respondent

Mr. Deepan Dixit a/w. Mr. Vrushabh Savla for Applicant.
Mr. Balraj B. Kulkarni, APP for Respondent-State.
Mr. Sharad Barkade, API, Khandeshwar Police Station.

CORAM : MANISH PITALE, J.
DATE : JUNE 27, 2024

P.C. :

. Heard Mr. Dixit, learned counsel for the applicant and Mr.Kulkarni, learned APP for the respondent-State.

2. The applicant has approached this Court apprehending arrest in connection with FIR No.0327 of 2023 dated 22.11.2023 registered in Khandeshwar Police Station, District - Navi Mumbai, for offences under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. As per the informant, the applicant, as a director of a travel agency, has duped the travel agency of the informant of an amount of more than Rs.6 lakhs. It is claimed that amount was transferred to the applicant to be utilized for booking air tickets and the air tickets had to be cancelled subsequently because of *Covid-19* pandemic but the refund was never made by the applicant despite repeated reminders and follow-up by the informant. On this basis, the aforesaid offences have been registered against the applicant.

4. The learned counsel for the applicant submits that the dispute

between the parties arises out of a commercial transaction. It is submitted that even as per the informant, the applicant had been providing proper services as the informant as well as the applicant are in the business of booking tickets and they are concerned with travel agencies. It is submitted that the tenor of the allegations indicates that the amount was actually transferred by the informant in favour of an entity called *Shree Gajanan Enterprises* and yet, the said entity has not been arraigned as accused in the present case. It is also submitted that even as per the informant, the amounts were allegedly refunded to the applicant due to cancellation of the tickets, way back in May and August, 2020 and yet the FIR has been registered belatedly on 22.11.2023. On this basis, it is submitted that since the applicant is ready to co-operate with the investigation, this Court may consider granting relief.

5. On the other hand, the learned APP submits that the applicant had appeared before the investigating officer in pursuance of the notice issued under Section 41-A of the Code of Criminal Procedure, 1973 (Cr.P.C.) but he has not co-operated fully, as details expected from him have not been supplied. It is submitted that the ingredients of the aforesaid offences are *prima facie* made out by the statement of the informant, and therefore, this Court may not show indulgence to the applicant.

6. A perusal of the FIR shows that it pertains to incidents that allegedly took place between 21.01.2020 and 22.11.2023. But, a perusal of the statement of the informant shows that the amounts were allegedly refunded to the applicant as far back as in May and August, 2020 and that the informant was aware about the same. It is the case of the informant that despite repeated reminders and follow-up, the applicant had not refunded the amount to the informant. The registration of the

FIR on 22.11.2023 *prima facie* indicates that the informant took his own time in reaching out to the police.

7. Be that as it may, the allegations in the statement of the informant show that the amount was transferred by the informant to *Shree Gajanan Enterprises* and the person concerned with the said entity, for the purpose of booking tickets. It is thereafter stated that the said amount found its way to the applicant, who booked the tickets. Cancellation of tickets due to the *Covid-19* pandemic and the consequent refund, having been allegedly received by the applicant, was never forwarded to the informant. But, it is to be noted that even as per the informant, there was another intermediary called *Vicky Tourism*, which was also allegedly part of the chain of the entities, leading to the applicant for booking of the tickets.

8. In the travel and tourism sector, it is a common practice for the travel agencies to engage the services of each other on the basis of actual payments or even on credit and then to eventually settle their accounts. The intervention of the *Covid-19* pandemic did cause a havoc in the travel and tourism industry and this led to sudden cancellation of tickets and the claims of refund of various clients.

9. There is substance in the contention raised on behalf of the applicant that in that sense, the dispute can be said to be a commercial dispute and considering the fact that the informant was aware about the alleged refund of amounts to the applicant as far back as in May and August 2020, while the FIR was registered only on 22.12.2023, this Court is inclined to grant relief to the applicant, but subject to the applicant co-operating with the investigation.

10. In view of the above, the application is allowed in the following terms:-

A. In the event the applicant is arrested in connection with FIR No.0327 of 2023 dated 22.11.2023 registered in Khandeshwar Police Station, District - Navi Mumbai, he shall be released on bail on furnishing PR Bond of Rs.50,000/- (Rupees Fifty Thousand only) with one or two sureties in the like amount to the satisfaction of the trial Court;

B. The applicant shall remain present before the investigating officer on 01.07.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;

C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

11. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled.

12. The application stands disposed of.

(MANISH PITALE, J.)

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