IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1781 OF 2024

Rajesh Ramesh Pogul … Applicant

Vs.

State of Maharashtra … Respondent

Mr. Milan Desai a/w. Mr. Rohan Naidu i/b. R. S. Associate Sudeep Sharma for Applicant.

Mr. R. M. Pethe, APP for Respondent-State.

Mr. Koli, API, Lashkar Police Station, Pune City.

CORAM : MANISH PITALE, J.

DATE : JULY 08, 2024

P.C. :

. Heard Mr. Desai, learned counsel counsel for the applicant and Mr. Pethe, learned APP for the respondent-State.

2. The applicant has approached this Court as he is apprehending arrest in connection with FIR No.0107 of 2024 dated 23.04.2024 registered with Lashkar Police Station, District - Pune, for offences under Sections 379, 406, 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The FIR shows names of three accused persons, but the learned counsel for the applicant informs this Court that another accused person is now added, concerning the said FIR.

4. The case of the informant, who is a bank manager of the concerned branch of Canara Bank, is that the accused Nandkishor along with accused Sunita visited the branch of the said bank. The said accused Sunita posed as one Liza Battiwala and along with accused Nandkishor impressed upon the bank officials that the said Liza Battiwala is entitled for encashment of certain fixed deposits left behind by her parents. On the basis of the representations made by the said

accused persons, a huge amount of Rs.53,16,000/- was encashed. Subsequently, when the accused Nandkishor visited the bank again for encashment of remaining amount, the bank officials suspected foul play. Upon inquiry being made, it was found that the said Liza Batliwalla had already expired on 24.08.2016. It is also stated by the informant that when the aforesaid fact came to light, the fraud committed by the said accused persons was realized and it further came to light that the amount had found its way to the bank account of accused Rajesh Pogul i.e. the applicant before this Court.

5. The learned counsel for the applicant submits that the applicant is distantly related to the accused Nandkishor and since the applicant was in dire need of funds as he was required to spend substantial funds for the treatment of his father during the *Covid-19* period and this fact was known to the accused Nandkishor, certain amounts were transferred into the account of the applicant. It is the case of the applicant that the accused Nandkishor told him that he could not receive amounts into his account and that therefore, such amounts could be transferred to the account of the applicant. According to the applicant, in this backdrop, the amounts were received from the account of Liza Battiwala and subsequently, amounts were withdrawn and handed over to the accused Nandkishor and some of the amounts were utilized by the applicant for making payments to his creditors. It is submitted that the applicant is innocent as he was never a part of the conspiracy to defraud the bank and that in any case, the bank account statements of the applicant would show that he was not involved in the alleged offence. It is submitted that the applicant is ready to co-operate with the investigation.

6. On the other hand, the learned APP submits that the explanation sought to be given in the application on the basis of bank account statement is a self-serving explanation. In any case, it is submitted that the bank account statement itself indicates that huge amounts came from

the bank account of Liza Battiwala and immediately, such amounts were either withdrawn by the applicant or they were transferred to the account of other individuals. On this basis, it was submitted that the involvement of the applicant is clearly made out in the present offences and that the applicant does not deserve any indulgence.

7. This Court has considered the rival submissions in the light of the material placed on record. The applicant is himself admitting to the fact that huge amounts of money were transferred to him between 24.07.2023 and 26.09.2023, to the tune of Rs.30,63,200/- in his bank account from the account of Liza Battiwala. At this stage, the explanation sought to be given by the applicant for accepting such huge amounts from the account of a third person about whom the applicant had no information, appears to be tenuous. The bank account statement of the applicant and the table given in paragraph 16 of the application shows that huge amounts were withdrawn in cash and allegedly handed over to the co-accused Nandkishor. Whether such cash amounts, upon withdrawal, were transferred to the co-accused Nandkishor would be a matter of further investigation. In any case, the amount that was withdrawn by co-accused persons on the basis of fraudulently presenting accused Sunita as the deceased Liza Battiwala, found its way into the account of the applicant, thereby *prima facie* showing his involvement in the offences in question. The FIR was registered recently on 23.04.2024 and the investigation is still at preliminary stage.

8. The applicant has not made out a case for granting anticipatory bail. Accordingly, the application is dismissed.

(MANISH PITALE, J.)

Minal Parab