IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1853 OF 2024

Sanjay Kisan Kajalkar ...Applicant

Versus

The State of Maharashtra ...Respondent

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- Mr. Chaitanya Pendse a/w Mr. Vinayak R. Patil and Mr. Vishal N. Nevshe, for Applicant.
- Ms. Megha Sumit Bajoria, APP for Respondent.
- Mr. D.M. Waghmare, API, EOW Unit-2, Pune City.

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SHRIKANT SHRINIVAS MALANI

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Date: 2024.07.31 11:19:35 +0530

CORAM : MANISH PITALE, J.

DATE : 30th July, 2024.

P. C. :

1. Heard, learned counsel for the applicant and Ms. Megha Bajoria, learned APP for the State.

2. The applicant is apprehending arrest in connection with First Information Report No.0250 of 2024 (FIR), dated 24th May, 2024, registered at Police Station Chandan-Nagar, District Pune, for the offences under Sections 420, 406, 467, 468 and 471 read with 34 of the Indian Penal Code (IPC).

3. The applicant is one of the nine named accused persons in the present case. The informant in the present case is the Deputy Manager of Axis Bank, incharge of the Fraud Control Unit. The statement of the informant shows that when an enquiry was made pertaining to certain loan accounts that

had become irregular and defaults were noticed, it came to light that the borrowers concerning such loan accounts were shown as salaried individuals and loan had been provided on the basis of the services provided by Direct Selling Agents (DSA) of the aforesaid bank. It was found that the said borrowers were in fact, not salaried individuals and an illusion was created that regular salary was being deposited in the account of such borrowers. It is alleged that the accused persons conspired and arranged for amounts to be deposited in the accounts of such borrowers for three months to given an impression that salaries were being deposited. Since details of salaries of only three months are taken into consideration, while scrutinizing such applications for loan, it was found that such loans were fraudulently obtained. Initially certain installments were paid, but thereafter, the accounts fell into defaults. On this basis, it is alleged that the accused persons have duped the bank and committed the aforementioned offences.

4. The learned counsel for the applicant submits that the applicant has been working as a connector associated with one DSA i.e. Fin India Financial Services. He had no role to play other than verifying the documents submitted by the borrowers. It is further submitted that the applicant as the connector associated with the said DSA was only paid commission for seven loan accounts with which he and the said DSA were associated. It is submitted that even according to the statement of the informant, based on the enquiries

conducted by the bank, the role of the said DSA came to the fore and there cannot be any criminality associated with the applicant. At worst, field survey was not properly conducted, but the same also does not pertain to the responsibility of the applicant as a connector of the said DSA. It is further submitted that the applicant cooperated with the investigation when interim relief was granted before the Sessions Court. It is further submitted that none of the borrowers have been arraigned as accused in the present case. Therefore, this Court may favourably consider the present application.

5. On the other hand, the learned APP vehemently opposed the present application. The investigation papers were made available for perusal and much emphasis was placed on the statements given by the borrowers, indicating the *modus operandi* in the present case. It was submitted that the said *modus operandi* could not have been given effect to, without the active involvement and support of the accused persons like the applicant before this Court. On this basis, the learned APP submitted that the application deserved to be dismissed.

6. This Court has perused the material on record, including the investigation papers. The statement of the informant, leading to registration of the FIR, does indicate a specific *modus operandi* adopted in the present case, whereby an impression was created before the bank that salaried

individuals had applied for loan. The bank account statements of the loan applicants showing salary being credited in their accounts did give an impression to the bank that the loan applicants had *bona fide* approached for grant of loans.

7. The responsibility of the DSAs, including the DSA with which the applicant is associated, was to verify the claims on the basis of which loan applications were submitted. The material on record indicates that, not only was the applicant *prima facie* negligent in his duties of verifying the documents, but the sub-connectors working under the supervision of the applicant got in touch with the borrowers. This Court has perused the statement of one such borrower, who has stated that he was not aware that his account was misused by the sub-connectors for applying for loan and that the entire *modus operandi* indicates that the accused persons *prima facie* created documents and thereby an illusion for the aggrieved bank to proceed on the basis that the borrowers were salaried individuals, who would be regularly repaying the loan amounts. As a matter of fact, it was found that none of the borrowers were salaried individuals and that amounts were deposited in their accounts to give an impression that monthly salary was being deposited. Such an elaborate method to dupe the bank could not have been undertaken without the involvement of concerned persons associated with DSA. In the present case it is an admitted position that the applicant is a connector

working with one such DSA and that he was involved at least in seven such loan applications.

8. The contention raised on behalf of the applicant that in most of the seven cases either the installments were being paid regularly or that loan amounts had ben returned and the accounts had been closed, cannot be a ground to grant anticipatory bail, simply for the reason that the criminality cannot be washed away by return of the loan amount. In any case, the complicated *modus operandi* undertaken by the accused persons in the present case, including the applicant would require appropriate investigation and no case is made out for granting anticipatory bail. The application is rejected.

(MANISH PITALE, J.)