IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2043 OF 2024

Vasant Sabaji Kadam ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. Mukesh Y. Dongarge a/w Tejas Donde for the Applicant.
Mr. Bapu V. Holambe-Patil, APP for Respondent-State.
Mr. Ankur Shelar, PSI, Panvel City Police Station.

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CORAM: MANISH PITALE, J.
DATE : 9th AUGUST 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0330 of 2024 dated 17th May 2024 registered at Panvel Police Station, Navi Mumbai, for offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code, 1860 (IPC). The applicant is one of the accused persons.

3. As per the statement of the informant, he claims to be an agriculturist, who was induced and allured into parting with substantial sums of money on promises given by the accused persons, including the applicant, about such money being returned with huge profit. In fact, it is specifically alleged that the accused persons promised that the amount would be doubled or atleast

increased by 1 and ½ time, if the investment was made. Specific instances of such inducements and allurement have been described in the statement of the informant and it is claimed that eventually, a loss of about Rs.98,84,130/- was suffered by the informant and his family, due to the *modus operandi* undertaken by the accused persons.

4. The learned counsel for the applicant submits that the grievance of the informant pertains to the period of about four years. It is clear, even from the statement of the informant that certain amounts were returned to the informant. It is claimed that amongst other things, the business of the applicant was to arrange for foreign currency on the basis of amounts transferred by individuals. It is claimed in the present case that US Dollars were arranged by the applicant. Thereafter, all the allegations made by the informant are pertaining to oral inducement allegedly given by the applicant, due to which specific amounts were deposited. It is highlighted that such amounts were claimed to have been deposited with certain foreign companies and even as per the statement of the informant, such amounts did not come into the account of the applicant. There is nothing to indicate any documentary material to connect the applicant with the grievance of the informant. It is submitted that trade account, as well as savings bank account of the applicant have been frozen and he had already visited the Investigating Officer a number of times, thereby indicating that his custody is not necessary.

5. On the other hand, the learned APP has vehemently opposed the prayer made in the present application. He relies upon the statement of the informant, leading to registration of the FIR, further contending that the grievance has been described in detail, which brings out the inducement given by the applicant, which led to the informant and his family parting with huge amounts of money. The ingredients of the offences are clearly made out and therefore, this Court may not show any indulgence to the applicant.

6. The statement of the informant, which led to registration of the FIR, is perused. It is a detailed statement, indicating as to the manner in the accused persons allegedly induced and allured the informant, who is an agriculturist, to invest substantial amounts on promise of handsome return. It is submitted that initially certain amounts were returned, but when the promised return was not fetched, the applicant claimed that investment could be made in other entities, so that the expected return could be earned. Specific allegations have been made with regard to the amounts that were transferred by the informant and his family members at the instance and inducement given by the applicant. It is specifically alleged that after such amounts, part of which were in US Dollars, were transferred by the informant and his family members, the applicant and the co-accused persons started avoiding the informant and they did not arrange for or ensure the promised handsome return.

7. This Court is of the opinion that the nature of allegations with specifications given by the informant, do *prima facie* make out the ingredients of the offences alleged against the accused persons, including the applicant. In fact, as against the applicant there are specific allegations about the manner in which the inducements were made. The fact that initially certain amounts were returned, cannot inure to the benefit of the applicant, for the reason that, in such case, it is often noticed that initially certain amounts are returned to gain the confidence of innocent investors and thereafter, the accused persons take further deposits of amounts, without taking any action to live up to the promise of handsome returns.

8. This Court is not impressed with the submissions made on behalf of the applicant, for the reason that the investigating authority is entitled to further investigate into the matter and it may require custody of the applicant to understand the exact *modus operandi* and the connection of the applicant with the foreign companies, in which the informant was induced to make deposits at the behest of the applicant. As to whether the applicant is to be taken into custody or not is purely within the power and domain of the investigating authority. But, the applicant has failed to make out a case of granting him protection.

9. In view of the above, the application is dismissed.

MANISH PITALE, J.

BIPIN DHARMENDER PRITHIANI
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