IN THE HIGH COURT OF JUDICATURE AT BOMBAY CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 2138 of 2024

Amit Suryakant Swami
An Indian Inhabitant aged about 31 years,
R/at. Room No.1, Siddhivinayak Chawl,
Pandey Compound, Sainbai Nagar,
Appapada, Kurar Village,
Mumbai - 400 097. ...Applicant

Vs.

The State of Maharashtra
(At the instance of Dahisar Police Station) ...Respondent

Mr. Milan Desai i/b. Ashwini Desai, for the Applicant.
Mr. Arfan Sait, APP for the Respondent – State.
Ms. Sartaj Shaikh, for the Intervenor.
PI Suryawanshi (IO) and PSI Hajare (Pairavi), Dahisar Police Station is present.

Coram: R.N. Laddha, J.
Date: 1 August 2024

P.C.

This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.711 of 2024, registered at Dahisar Police Station, Mumbai, for offence punishable under Section 420 of the Indian Penal Code.

2. The informant contends that the applicant with the intention to deceive, persuaded her to invest Rs.10 lakhs as his

partner in managing the Social Tribe Hotel in Malad. The promise was a monthly return of Rs.1 lakh. However, the applicant did not fulfill this commitment or refund the invested amount.

3. Mr Milan Desai, the learned Counsel appearing on behalf of the applicant, contends that in May 2023, the applicant's friend, Prem Yadav, offered a business opportunity. They were in partnership to manage the Social Tribe Hotel in Malad, owned by Vinod Singh, on lease. The arrangement required a security deposit of Rs.20 lakhs and a monthly rent of Rs.12 lakhs. The applicant contributed Rs.10 lakhs to the security deposit. Later, Prem Yadav informed the applicant that instead of him, the informant would be his business partner, and that he, along with the informant, would look after the business affairs. Accordingly, the informant transferred Rs.10 lakhs to the applicant for her share of the security deposit, which the applicant promptly forwarded to Vinod Singh. However, after a month, discrepancies emerged: the business incurred losses, the expenses remained unpaid, and the informant accepted monies in her personally bank account from the customers and misappropriated Rs.1 lakh towards the alleged monthly return on investment. The applicant requested the informant to return the accepted sums. However, she refused and demanded a refund of her share of the security deposit. In August 2023, both parties filed police complaints

against each other. After that, the applicant attended the police station, where his statement was recorded. Mr Desai submits that there has been an unexplained delay of a year in lodging the present FIR. The applicant is innocent, and the transaction is given a criminal colour to falsely implicate the applicant in the crime. The applicant is ready and willing to cooperate with the investigation.

4. Conversely, Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/ State, and Ms Sartaj Shaikh, the learned Counsel appearing for the intervenor/ first informant, jointly assert that the applicant misappropriated Rs.10 lakhs, which the informant had transferred for a business partnership. The informant was promised a monthly return of Rs.1 lakh; however, the applicant declined to formalise their arrangement by executing a partnership deed. The learned APP further contends that the applicant is the recipient of this sum. The offence is serious, which warrants caution, and granting anticipatory bail could potentially lead to evidence tampering or witness influence.

5. Upon perusing the records, it appears that the applicant is accused of inducing the informant to enter into a partnership for running the Social Tribe Hotel in Malad on a lease. The allegation is that Rs.10 lakhs, transferred for this business venture, were

misappropriated. As per allegations in the FIR, the informant and the applicant had a business understanding, and the funds were transferred to Vinod Singh in June 2023 as a security deposit for leasing and running the hotel. A month later, disagreements arose between the parties for the rendition of accounts, triggering both parties to file written complaints against each other in October 2023. The offence relates to a transaction from June 2023, but the crime was registered in June 2024. The FIR does not explain the year-long delay. *Prima facie*, the genesis of the offence appears to be civil in nature. Moreover, the investigation is almost complete. Appropriate conditions can be imposed to address the concerns regarding evidence tampering and witness influence. In these circumstances, this Court is inclined to exercise its discretion in favour of the applicant and allow the present application. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in CR No.711 of 2024, registered at Dahisar Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station as and when required.

(iii) The applicant, himself or through any other person, shall not tamper with the evidence or influence the witnesses.

6. The application stands disposed of accordingly.

(R. N. Laddha, J.)