IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No. 2271 of 2024

Rahul S/o. Giriraj Sharma
Age 29 years, Occ. Job,
R/o. 68, Jay Ambe So.,Part -2,
Kuber Nagar,Ahmedabad, Gujarat. ...Applicant
Vs.
The State of Maharashtra
(Copy to be served upon Ld. PP Office
High Court, Bombay) ...Respondent

Mr Keshav Damani i/b Shraddha Kadam, for the Applicant.
Ms Supriya Kak, APP for the Respondent/State.
PI Bhosale, Pydhonie Police Station, Mumbai, is present.

Coram: R. N. Laddha, J.
Date: 10 September 2024

P.C.

Heard Mr. Keshav Damani, the learned counsel for the applicant and Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent / State.

2. This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.66 of 2023, registered at Pydhonie Police Station, Mumbai, for offences punishable under Sections 419, and 420 read with 34 of the Indian Penal Code.

3. It is the case of the prosecution that the applicant approached the complainant, claiming to be a representative of A-one Traders based in Ahmedabad, Gujrat. The applicant offered to secure government tenders for the complainant in return for a 32% profit. He

requested that the complainant make payments outside the company's official channels, compromising significant tenders for a 1% commission. When the complainant declined due to insufficient funds, the applicant persisted for 10-15 days, pressuring him to comply. Eventually, the applicant revised his offer to Rs.20,000/-, which the complainant agreed to and paid online. However, the applicant delayed issuing a receipt and later introduced the complainant to a senior colleague, Jaywala. Jaywala informed the complainant that the applicant had been removed from the service and introduced a new executive, Pravin. Pravin demanded additional payments for government fees and an NISC certificate, assuring the complainant of securing government tenders along with 100% refund guarantee. Trusting these assurances, the complainant provided his bank details, expecting to receive a tender worth Rs.3,70,00,000/-. When the tender and payment did not materialise, the complainant filed an FIR after transferring a total sum of Rs.6,84,930/-.

4. Mr Keshav Damani, the learned Counsel for the applicant, submits that the applicant has been falsely implicated in the crime. The applicant had no involvement in the alleged offence, and the accusations are baseless. The learned Counsel highlights the delay in filing the FIR and emphasises that the applicant was simply an employee following his superior's instructions in a telemarketing role aimed at attracting customers to the company. According to Mr Damani, the applicant had no criminal intent and was merely

performing his job duties. The amount of Rs.20,000/- was transferred to the company account, and the applicant subsequently left his job for personal reasons. The applicant has no criminal antecedents. The learned Counsel also submits that the company opened an account in the applicant's name without his involvement in the company affairs.

5. On the other hand, Ms Supriya Kak, the learned APP, argues that the applicant and the co-accused, in furtherance of their common intention, defrauded the complainant of Rs.6,84,930/-. A portion of this amount was deposited in the applicant's bank account and the mobile phone used in the crime is yet to be recovered. The investigation is at a nascent stage.

6. Upon perusing the records, it appears that the applicant and the co-accused, in furtherance of their common intention, deceived the complainant into paying Rs.6,84,930/- under the false promise of securing government tenders. The material on record indicates that a portion of this amount was deposited into the applicant's account. The applicant used his mobile phone to induce the complainant to make these payments. Both the mobile phone and amount in question have not yet been recovered. The record also shows that the applicant provided the complainant with fraudulent GST numbers. The investigation is at a nascent stage. In the circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. Accordingly, the application stands rejected.

[R. N. Laddha, J.]