IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2315 OF 2024

Raviraj Mahendra Patil	…	Applicant
vs.		
The State of Maharashtra	…	Respondent

Mr. Amit A. Gharte for applicant.

Mr. Sagar R. Agarkar, APP for respondent-State.

CORAM : MANISH PITALE, J.
DATE : 04th SEPTEMBER, 2024

P.C. :

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

2. The applicant is apprehending arrest in connection with FIR No.0175 of 2024 dated 18.07.2024 registered at Malegaon Camp Police Station, District Nashik Rural for offence under Section 420 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The grievance of the informant is that in January 2024, co-accused Mahendra Ahire gave an impression to the informant that if she invested certain amount of money, she would be earning return of ₹ 50,000/- within 3 months and over a period of time, the amount would be more than double, with a possibility of winning a four-wheeler in a lucky draw. It is the case of the informant that she was induced to part with an amount of ₹ 3 lakhs in the said scheme. In her statement, the informant has specifically named the applicant as the person associated with the co-accused and also being introduced as marking executive of the company in whose name, the amount of ₹ 3 lakhs was eventually transferred. It is the case of the informant that

neither the amount of ₹ 50,000/- was deposited in her account within the promised period of time, nor was the deposited amount returned, thereby demonstrating that she was cheated for huge amount of money.

4. The learned counsel for the applicant submitted that in the facts of the present case, the applicant is merely an employee of the company. The entire amount was transferred in the account of the company. Reference was made to certain tax invoices, showing that mattresses were sold and delivered to the informant at the rate of ₹ 15,000/- per mattress and that all this was in the backdrop of a direct selling scheme of the company of which the applicant is an employee. Reference was made to a standard disclaimer clause of the company, indicating that the person who agrees to become part of the direct selling scheme, would be eligible for earning profits and that no deposit or joining fees was charged. On this basis, it was submitted that this Court may allow the present application.

5. On the other hand, the learned APP vehemently opposed the prayer made in the present application. He submitted that the ingredients of the offence under Section 420 of the IPC are clearly made out, on the basis of statement of the informant, which led to registration of FIR. Documents sought to be relied upon by the applicant are more in the nature of defence, which cannot be looked into, at this stage itself. It is submitted that the applicant has remained absconding and he has not co-operated with the investigation.

6. This Court has considered the rival submissions, in the light of the material available on record. A perusal of the statement of the informant, which led to registration of FIR, *prima facie* makes out the ingredients of

Section 420 of the IPC. There are clear statements, indicating the manner in which the accused persons, including the applicant, induced the informant into parting with huge amount of ₹ 3 lakhs on the promise of return of ₹ 50,000/- within 3 months and other such inducements referred to hereinabove. It is not as if a general and omnibus allegation was made by the informant. On the contrary, she has made specific allegation against the applicant also, further stating that he was introduced as marketing executive of the company in question.

7. In that light, at this stage, it would not be appropriate to accept the contention of the applicant that he cannot be held liable, as he was merely an employee of the said company and that the amount was actually transferred to the account of the company. Reference to tax invoices showing certain mattresses being sold and delivered to the informant, is not shown to be accompanied with either any agreement executed with the informant or any exchange of email or other such communication, whereby the informant was made aware of the direct selling scheme, as is now being claimed by the applicant on the basis of the document at Exhibit B, which is nothing but a standard format disclaimer clause of the company in question.

8. The nature of allegations made by the informant demonstrate that she was induced into parting with huge amount of money, wherein she invested the terminal benefits received by her husband and essentially, the ingredients of offence under Section 420 of the IPC can be *prima facie* said to be made out. The applicant has failed to make out a case for grant of anticipatory bail.

9. The application is dismissed.

(MANISH PITALE, J)