IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2353 OF 2024

Shaikh Shabbir H. Abdul H ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. R.S.Kate with Mr. Pravin M. Dabade, for Applicant.
Mrs. Mahalaxmi Ganapathy, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 27 AUGUST 2024

P.C.

1. Heard the learned Counsel for the parties.

2. This is an application for pre-arrest bail in connection with C.R.No.781 of 2021 registered with Lokmanya Tilak Marg Police Station for the offences punishable under Sections 120-B, 420, 465, 467, 468, 471, 406, 409 read with Section 34 of the Indian Penal Code and Sections 66(C) and 66(D) of the Information Technology Act, 2000.

3. In fact, this is a second application for pre-arrest bail. First application, being ABA No.3154 of 2023, came to be dismissed as withdrawn as this Court had then expressed its disinclination to entertain the prayer for pre-arrest bail.

4. Learned Counsel for the Applicant submitted that there is a change in the circumstances, as one of the co-accused Santosh Adagale (A10) has been enlarged on regular bail.

5. Amol A. Kadam, the first informant, works as the Regional Operations Manager at IDBI Bank, Mumbai. The applicant was posted as a Branch Manager at IDBI Bank, Girgaon Branch. On 6 January 2021, the first informant inspected nine files of vehicle advances processed at the said Branch by the applicant. Inspection revealed a number of deficiencies in the documents. It further transpired that all the borrowers had purchased the vehicles from Sharayu Motors. However, a forged email purported to be addressed by the Sharayu Motors from their email ID shaayuvashi@sharayugroups.net was sent to the bank requesting for credit of the loan amount in the Bank of India account, which stood in the name of one Maksood I. Patel. A false email ID was created in the name of Sharayu Motors. Resultantly, the loan amount was got fraudulently transferred to fictitious account opened under the name of Sharayu Motors with Bank of India by Maksood I. Patel. Thus, a sum of Rs.1,37,57,000/- was transferred

to the said account and subsequently withdrawn by the borrowers, who were not eligible for the vehicle loan.

6. Learned Counsel for the Applicant endeavoured to urge that the custodial interrogation of the applicant is not warranted. No incriminating material has emerged in the custodial interrogation of the co-accused, who have since been released on bail.

7. I am unable to accede to the aforesaid submission. First and foremost, there is no propriety in entertaining a second application for pre-arrest bail, when the first one was dismissed as withdrawn. Even otherwise, the nature of the accusation against the applicant is such that the applicant does not deserve pre-arrest bail. There is material to indicate that the loan proposals were approved by the applicant and the loan amounts were disbursed to fictitious accounts. There were significant deficiencies in the loan proposals. An email was addressed to the bank from a fabricated email ID purported to be that of Sharayu Motors. The account to which the loan amount was transferred, was opened in the name of Sharayu Motors by a fictitious person. In as many as nine cases, the loan amounts were fraudulently transferred to the said

account. The involvement of the applicant in the alleged offences is prima facie evident. The concomitant circumstances are such that, without the involvement of the applicant, such a fraud of egregious nature could not have been committed. Prima facie, it appears to be a case of the fence eating into the crop.

8. No case for pre-arrest bail is made out.

9. Thus, the application stands rejected.

10. By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail only.

Application disposed.

(N.J.JAMADAR, J.)