IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2899 OF 2024

Aftab Mannan Sheikh … Applicant
vs.
The State of Maharashtra … Respondent

Ms. Misbaah Solkar a/w. Ms. Sejal Jain, Ms. Muskan Memon and Ms. Lavanya Salve for applicant.
Ms. Megha S. Bajoria, APP for respondent-State.
Mr. R. M. Kedar, API, EOW, District Nashik City.

CORAM : MANISH PITALE, J.
DATE : 14th NOVEMBER, 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.0054 of 2023 dated 18.03.2023, registered at Devlali Camp Police Station, District Nashik City, for offences under Sections 406, 409, 420 and 120-B read with Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

3. The statement of the informant leading to registration of FIR shows that according to him, he was induced and lured into parting with substantial amounts of money on the promise of handsome returns by the named accused persons, who were concerned with the company Acumen. The supplementary statements were recorded, which led to further investigation into the matter.

4. The name of the applicant was added as an accused much later,

primarily on the basis of the statement of one of the witnesses, who claimed that the applicant was also one of the persons, who had induced investors into investing amounts with the said company of the named accused persons.

5. The learned counsel for the applicant submitted that the applicant is as much an investor as others, including the informant. It is submitted that substantial amounts were invested by the applicant himself in the aforesaid company of the named accused persons and that certain amounts towards returns were also received in the bank account of the applicant. It is submitted that there is hardly any material with the investigating authority to claim that the applicant had connived with the named accused persons in the FIR for duping innocent investors and in the bargain, earning substantial amounts of money. It is emphasized that the name of the applicant cropped up after one year of registration of the FIR.

6. The learned APP relied upon the investigation papers to contend that the applicant was very much involved with the named accused persons, in the process of duping innocent investors, as his signature is found on some of the agreements executed with innocent investors. It is submitted that the bank account statements of the applicant would show that certain amounts were deposited in the said bank accounts and thereafter, substantial amounts were transferred into the bank account of the aforesaid company run by the named accused persons, thereby indicating that the applicant was actively involved in duping innocent investors and in the process, he was paid substantial amounts by the company. This is said to be evident from the bank account statements. It is submitted that in this backdrop, physical custody of the applicant is necessary for effective investigation.

7. This Court has perused the material on record, including the relevant

portion of the investigation papers, as brought to the notice of this Court. The documents show that the applicant was not named as one of the persons, who duped the informant. The supplementary statements of the informant have also not indicated the role of the applicant in any manner. The applicant appears to have been arraigned as an accused after about 1 year of registration of FIR, on the basis of statement of one of the witnesses, recorded during the course of investigation. A perusal of the said statement does indicate that the applicant has been named as a person, who claimed that he had earned substantial amounts through investment in the said company and there is an indication that the applicant had encouraged others to invest in the company of the named accused persons.

8. But, considering the entries in the bank account statement of the applicant himself, *prima facie*, it can be said that the applicant had transferred substantial amounts into the aforesaid company and in that sense, this supports the contention raised on behalf of the applicant that he was also an investor. The amounts received in the bank account of the applicant *prima facie* can be relatable to the aforesaid investments made by him.

9. The contention raised by the learned APP that the applicant was inducing the investors and collecting amounts which were in turn transferred to the aforesaid company, is not supported by the material presently available on record. Therefore, the applicant has made out a *prima facie* case in his favour.

10. As regards the signature of the applicant on at least one such agreement executed between the said company and an investor, that in itself does not indicate a strong *prima facie* case against the applicant, for the

reason that even according to the applicant, as he had invested in the said company, he had asked his friends and acquaintances to do so. Therefore, this Court is inclined to allow the present application.

11. In view of the above, the application is allowed in the following terms:

(i) In the event the applicant is arrested in connection with FIR No.0054 of 2023 dated 18.03.2023, registered at Devlali Camp Police Station, District Nashik City, he shall be released on bail on furnishing PR Bond of ₹ 50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

(ii) The applicant shall remain present before the Investigating Officer on 18.11.2024 and 19.11.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.

(iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

(iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

12. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

13. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

14. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli