IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.3233 of 2024

Anand Premchand Verma
Adult, Indian Inhabitant,
Aged about 33 years,
R/o. Flat No.B/408, Saraswati
Heights, Virar Link Road,
Central Park, Year Oswal Nagri,
Vasai Nallasopara (E),
Palghar – 401 209. … Applicant

Versus

The State of Maharashtra
through Inspector Incharge,
Cyber Police Station, South Division,
to be served through Public
Prosecutor, High Court, Bombay. … Respondent

Mr Mohd Saeed Moghul, along with Ms Deepa Panicker and Mr Azhar Shaikh, for the applicant.
Mr Yogesh Y Dabke, APP, for the respondent/ State.
PSI Shweta Kadhane, South Cyber Police Station, Crime Branch, Mumbai, is present.

Coram: R.N. Laddha, J.
Date: 28 November 2024

P.C.:

By this application, the applicant seeks pre-arrest in connection with CR No.91 of 2024, registered with Cyber Police Station, South Division, Mumbai, for offences punishable under Sections 419, 420, 465, 468 and 471 read with 120B of the Indian Penal Code, and Sections 66C and 66D of the Information Technology Act, 2002.

2. The prosecution alleges that the applicant colluded with the co-accused with the intent to deceive the informant into investing a substantial sum of Rs.19,95,000/- with the assurance of lucrative returns. However, when the applicant applied to withdraw the capital, the request was refused, ultimately leading to the filing of the present FIR.

3. Mr Mohammad Saeed Moghul, the learned Counsel appearing on behalf of the applicant, contends that the applicant received Rs.45,000/- in a bank account allegedly opened fraudulently in his name by an agent, Sachin, whom the applicant approached for a business loan. The applicant did not induce the informant to invest the alleged funds, and the ingredients of the offences are not attracted to him. Emphasising the applicant's innocence, the learned Counsel submits that the applicant has been falsely implicated in the crime.

4. Mr Yogesh Dabke, the learned Additional Public

Prosecutor representing the respondent/ State, resisting the request for pre-arrest bail, argues that the offence is serious as the applicant and the co-accused devised a scheme to lure individuals into investing substantial funds by promising lucrative returns. These funds were deposited in various bank accounts and never returned to the investor. Using this *modus operandi,* the applicant has received substantial sums from several investors, including Rs.45,000/- from the informant. The learned APP submits that the applicant has criminal antecedents, and the investigation is at an early stage. Further, despite freezing the applicant's bank account, the applicant's custodial interrogation is urgent and necessary to avoid losing vital links to the crime.

5. This Court has given anxious consideration to the rival submission canvassed across the Bar.

6. It is a settled principle in law that granting anticipatory bail is an extraordinary power. While it has been acknowledged in many instances that regular bail is considered a general rule, the same cannot be applied for anticipatory bail. The decision to grant anticipatory bail should be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. When exercising this power, the Court

must exercise caution, as granting protection in serious cases could potentially lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to ***Srikant Upadhyay v. State of Bihar***[1]

7. Upon perusing the records, it appears that the informant and several other individuals were victims of a concerted scheme, where individuals contacted through WhatsApp were enticed to invest substantial funds on a website with promises of lucrative returns. These returns were to be generated by trading in the stock market and applying for Initial Public Offers (IOPs). Once an investor decided to invest, an operator of the website, in this case, the co-accused, directed the investor to transfer funds to multiple accounts. The website would reflect the trade of stocks and profits generated therefrom. However, at the time of withdrawal of funds, an operator would either demand additional funds or refuse the request, thereby cheating the investor. There is material to show that a part of the informant's funds were transferred to the applicant's bank account. The applicant claims that the bank account in question was fraudulently opened and operated by an agent; however, there is nothing on record to substantiate this claim

[1] 2024 SCC OnLine SC 282.

or demonstrate that the applicant took any action or filed any grievance regarding the alleged unauthorised use of the account. A cursory review of the bank statement demonstrates that the applicant's account received significant deposits from various investors, including a transfer of Rs.45,000/- from the informant. This, *prima facie,* suggests the applicant's involvement in the orchestrated scheme. That apart, the applicant has criminal antecedents of a similar nature, there are similarly circumstanced victims, and the investigation is at a nascent stage.

8. In the totality of the circumstances, this Court finds it difficult to comprehend the applicant's assertion of non-involvement in the alleged crime. At this stage, granting the applicant pre-arrest bail may hinder the progress of an effective investigation. Given these aspects, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

(R.N. Laddha, J.)