IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.843 OF 2024

Mohammad Oves Idris Moden .... Applicant
Versus
The State of Maharashtra .... Respondent

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WITH
INTERIM APPLICATION NO.2394 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.843 OF 2024

Mr. Sohail Ahmed, Advocate a/w. Sameer Merchant i/b. Rajendra Rathod for the Applicant.

Mr.Prashant P. Jadhav, APP for the Respondent-State.

Mr. Majid Khan, Advocate i/b. Aafreen Bano for the Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st JULY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.74/2024 dated 12.3.2024 registered at Kharghar Police Station, Navi Mumbai under sections 406, 420 of IPC.

2. Heard Mr. Sohail Ahmed, learned counsel for the Applicant, Mr.Prashant Jadhav, learned APP for the Respondent-State and Mr. Majid Khan, learned counsel for the Intervenor.

3. The gist of the FIR is that the Applicant induced the informant and her relatives to invest money with him with promise to open Dmat account and do share-trading through that account. The allegations are that on various occasions he obtained money. The total amount was Rs.10 Lakhs. He had promised substantial interest per month. However, he gave interest only to the tune of Rs.1,65,000/- and he had misappropriated the balance amount of Rs.8,35,000/-. He did not open the Dmat account either. On these allegations, the FIR is lodged.

4. On the last occasion i.e. on 1.4.2024, learned counsel for the Applicant, on instructions and without prejudice to his rights and contentions, made a statement that the Applicant did not have any intention to commit misappropriation of that amount. He was willing to refund that amount. However, he required a reasonable time. He had also stated that the Applicant did not have any objection if that amount is withdrawn by the informant.

5. Today, a statement is made before Court by learned counsel for the Applicant that on 7.5.2024, the Applicant

deposited Rs.2,35,000/- and on 29.6.2024 he has deposited the balance amount of Rs.6 Lakhs through two DDs. Learned counsel produced on record a copy of the acknowledgment of the Registry made on the forwarding letter on the letterhead of learned Advocate on record. Copies of two DDs are also annexed to the said letter. Therefore, according to learned counsel for the Applicant he has deposited Rs.8,35,000/- as per his undertaking before the Court. He further states that the Applicant does not have any objection if that amount is withdrawn by the informant. Learned counsel for the informant is present in the Court.

6. Considering this situation, the Applicant can be granted anticipatory bail. On a specific query made by the Court, learned APP, on instructions, stated that no statement of any other aggrieved person is recorded besides that of the informant. He submitted that the Applicant be directed to report to the police station as and when called and to cooperate with the investigation.

7. Hence, the following order :

ORDER

(i) In the event of his arrest in connection with C.R.No.74/2024 registered at Kharghar Police Station, Navi Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The first informant – Fauziya Tambe is permitted to withdraw the amount deposited by the Applicant before this Court on producing her identity proof and after executing an indemnity bond that the money would be deposited in the appropriate Court if so required by any Court in future in connection with the present subject matter.

(iii) The Applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.

(iv) Anticipatory Bail Application is disposed of accordingly. With disposal of the application, the Intervention Application is also disposed off.

PRADIPKUMAR PRAKASHRAO DESHMANE

Digitally signed by PRADIPKUMAR PRAKASHRAO DESHMANE Date: 2024.07.03 15:03:24 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)