IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2377 OF 2024

Abdul Rashid Kalandar Khan	…	Applicant
vs.		
The State of Maharashtra	…	Respondent

WITH
INTERIM APPLICATION NO. 3588 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 2377 OF 2024

Mr. Ramanik Pawar a/w. Ms. Samiksha Pawar and Mr. Sarfaraj Sayyad for applicant.

Mr. R. M. Pethe, APP for respondent-State.

Mr. Amey Abhay Sirsikar a/w. Mr. Murtuza Noorani for applicant in IA/3588/2024.

CORAM : MANISH PITALE, J.
DATE : 09th SEPTEMBER, 2024

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent-State as well as the learned counsel having instructions to appear on behalf of the first informant as also the investors similarly situated like the first informant.

2. In the present case, the applicant is arraigned as one of the accused persons on connection with FIR No.0909 dated 30.07.2024 registered at Kondhwa Police Station, District Pune City for offfences under sections 406 and 420 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. The applicant apprehends arrest in connection with the aforesaid FIR.

3. As per the statement of the informant leading to registration of FIR, substantial amounts were deposited with the co-accused persons on the inducements of the co-accused persons as well as the applicant herein. It is alleged that the informant and other similarly situated individuals were induced into investing such substantial amounts on the promise of returns at 2-3% per month. The amounts were accordingly invested by the informant and other innocent investors, but the promised returns were never given and this prompted registration of FIR for the aforesaid offences.

4. The learned counsel for the applicant submitted that in the present case, there is no material to show that any amount was transferred by the applicant or other investors into the account of the applicant. Investments were made in the name of Saad Motors with which the accused No.1 Rafiq Kalandar Khan, who is the real brother of the applicant, is concerned. Other than the allegations of inducements made by the applicant, there is nothing to connect the applicant with the investment allegedly made by the informant and other investors on false promise of handsome returns.

5. It is submitted that detailed bank account statements of the applicant for various periods are placed on record with the application to demonstrate that he had advanced an amount of ₹ 30 lakhs to co-accused Rafiq Kalandar Khan, who is concerned with the said Saad Motors. The amount was partly repaid by the said co-accused person over a period of time and such amount is being wrongly linked with the investments allegedly said to have been

made by the informant and other investors. It is submitted that the applicant is ready to co-operate with the investigation and there is no ground made out for custody of the applicant.

6. On the other hand, the learned APP vehemently opposed the prayer made in the present application. He relied upon bank account statement showing the transfer of specific amounts by the co-accused Rafiq Kalandar Khan and Saad Motors to the bank account of the applicant. It is submitted that the amounts invested by the aggrieved persons found their way to the bank account of the applicant. Apart from this, attention of this Court is invited to the assertions made by the informant that the applicant induced him and other investors for investing money with Saad Motors and co-accused Rafiq Kalandar Khan. According to the learned APP, active participation of the applicant is evident from such material.

7. The learned counsel appearing for the first informant and other similarly situated investors presented a chart indicating the flow of amounts invested by the innocent investors into the account of Saad Motors, part of which found its way, not only to the account of the applicant, but also his family members. The applicant being very much party to the *modus operandi,* this Court may not show any indulgence.

8. The material on record is perused in the light of the rival submissions. The statement of the informant, leading to registration of FIR, indicates that the applicant was actively involved in inducing the informant and other investors to invest substantial amounts of money with Saad Motors, with which Rafiq Kalandar Khan-real brother of the applicant, is associated. It is significant to note that the informant has stated that the applicant is known

as a motivational speaker, who has various videos on social media, expounding about religious and virtuous behaviour. It is also specifically stated that the applicant repeatedly contacted the informant and others to induce them into making such investment with Saad Motors.

9. This Court is of the opinion that considering the specific allegations made against the applicant, his *prima facie* active involvement in the *modus operandi* comes through, in the light of the material on record. The applicant himself being a motivational speaker, was in a much better position to induce the informant and other innocent investors, as such persons had developed certain amount of faith in the applicant, considering the contents of his videos on social media. The effect of such material cannot be ignored at this stage. Even if the explanation sought to be given by the applicant about transfer of amount into his account is to be accepted for the sake of arguments, the specific allegations regarding inducements made against him cannot be ignored. It cannot be said that merely because the informant and other innocent investors did not directly transfer the amounts to the account of applicant, the said fact would necessarily inure to the benefit of the applicant.

10. The material on record does *prima facie* indicate involvement of the applicant in inducing the informant and other innocent investors in parting with substantial amounts of money on the false promises made to them.

11. Reliance is sought to be placed on certain complaints that the applicant has sought to lodge against his brother and others, to claim that the subject FIR is a counterblast and an after-thought. But, a perusal of such documents indicates that the applicant appears to have approached the

jurisdictional Magistrate in July 2024 with his own version of events. There is nothing on record to show as to what order has been passed in such proceeding, but existence of such material in itself cannot come to the aid of the applicant in the face of the specific allegations made against him.

12. No case is made out for granting anticipatory bail. The application is dismissed.

13. In view of dismissal of the bail application, the interim application also stands disposed of.

(MANISH PITALE, J)

PRIYA KAMBLI Digitally signed by PRIYA KAMBLI Date: 2024.09.10 14:21:01 +0530

Priya Kambli