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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.470 OF 2015

Himanshu Bansilal Parikh .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.A.M.Saraogi, Advocate, for the Applicant
Mrs.S.S.Kaushik, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 05.10.2015

P.C.

. Heard learned counsel for the applicant and the learned APP for the respondent – State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R.No. I-23 of 2015 registered with the Dombivali Police Station, Thane, for the alleged offences punishable under Sections 406, 420 r/w.34 of the Indian Penal Code.

3. The complainant is one Mrs.Nilkamal Prashant Gargatte. She has alleged that she and her husband had invested money in the firm of 'M/s. Lifestyle Investments'. According to the complainant, the applicant's brother, Jatin Parikh, who is also an accused had disclosed to her, that the present applicant along with his friend Rashesh Shah had taken out a partnership firm by the name 'M/s. Lifestyle Investments' and that he (Jatin) would be looking after the Bombay office, the applicant would be looking after the Dubai office and Rashesh Shah would be looking after the Ahmedabad office. The applicant's brother, Jatin had disclosed to her, that a minimum amount of Rs.1,00,000/- will have to be deposited and on which 3% interest would be given. She has alleged that certain post dated cheques were issued to her, signed by the applicant and Rashesh Shah on the amounts invested by her. However, the said cheques were

dishonoured. The present applicant and co-accused Rashesh Shah are alleged to have signed the said post dated cheques worth Rs.1,00,000/- and the said cheques were handed over to the complainant.

4. Learned counsel for the applicant states that the applicant was stationed in Dubai from June, 2009 to March, 2012 and thereafter, from 01.04.2012 to 19.09.2014. He submitted that the applicant had not made any representations to the complainant or any of the persons. He submitted that the applicant was running the said partnership firm by name and style as 'M/s. Lifestyle Investments' from Dubai and that the transactions were entered into by Jatin Parikh and Rashesh Shah with the complainant and others.

5. Learned APP opposed the bail application. She submitted that the applicant had made a statement before the Court, that he will not shirk his responsibility and that he is ready to deposit and pay 18 investors. She submitted that all the 18 investors, who have invested in the said partnership firm, have been given post dated cheques, admittedly, signed by the applicant. Learned APP further submitted that the applicant had admitted his liability and in fact, the applicant had made a statement that he would settle with all the bonafide investors. Even, today, learned counsel for the applicant admits the liability of the applicant but submits that the said amounts can be recovered through Civil Court.

6. Learned counsel for the applicant states that the said post dated cheques, though signed by the applicant were misused by his

brother Jatin Parikh.

7. Perused the papers. Admittedly, two of the partners of 'M/s.Lifestyle Investments' i.e. Jatin Parikh and Rashesh Shah were arrested and that it appears that subsequently, Jatin Parikh was enlarged on regular bail. The said co-accused Jatin is the brother of the present applicant and the contention that Jatin had misused the blank cheques, which are signed by the applicant, is a matter which would be decided by the trial Court. Prima facie, it appears and is not seriously disputed that the applicant had signed the post dated cheques, given to the investors, when the investments were made by them in 'M/s. Lifestyle Investments'.

8. It appears from the allegations that money was taken from several investors when they

invested and that post dated cheques signed by the applicant were issued to them. All the post dated cheques have been dishonoured. Prima facie, considering the material on record, it appears that the applicant has committed the alleged offences. Infact, even the applicant has admitted his liability. Considering the aforesaid, no ground is made out to exercise the discretionary relief in the facts of the case. Accordingly, the Application stands rejected.

9. It is made clear that if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this application. At the request of the learned counsel, the interim protection granted to the applicant is continued for a period of seven days. The applicant shall inform the investigating officer of the date and time of surrender.

10. Accordingly, the Application stands disposed of.

(REVATI MOHITE DERE, J.)