IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1050 OF 2015

Ramesh Meghraj Grover and another .....Applicants

V/s.

The State of Maharashtra ....Respondent

Mr. Niranjan Mundargi a/w Mr. Vikram Singh Yadav a/w Mr. Ramsingh Rajput i/b Agrud Partners for Applicants
Ms. S. S. Kaushik APP for the State.
Mr. Sunil Pawar, API E.O.W. 7

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 27th JULY 2015

PC :

Heard. This is a successive bail application. Applicants herein are apprehending their arrest in crime no. 67 of 2014 registered with Economic Offences Wing, crime branch, C.I.D., Mumbai. Applicants are being prosecuted for offence punishable under section 406, 420 r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 12/07/2014, one Vijaykumar Thakkar lodged a report at the police station alleging therein that in January 2012, he had met Sandip Shrivastav in a party. That Sandip Shrivastav had informed the complainant that he was acquainted with one Karan Dodani and

Shweta Grover. That they give good dividends and returns on the amount i.e. invested with their company. Sandip Shrivasta had further informed the complainant that he had invested such amounts and he was receiving about 15% returns in addition to other benefits. After some days, Sandip Shrivastava had informed the complainant that Karan Dodani and Shweta Grover are to leave India and he may not be able to meet them in the near future and therefore, he was requested to meet them at the earliest. Complainant met them on 04/07/2012 at Mainland China restaurant, Andheri. Complainant was taken to Mourya land mark building. Complainant had read the name plate on the door as Arselia Forex Trading Pvt. Ltd. He met Karan and Shweta in the office. Thereafter, complainant was informed by Karan and Shweta that 500 people had invested in their company and that they are giving 15% returns to the investors. Complainant was induced by Shweta and Karan to invest in the said company and accordingly, he had invested Rs. 5,00,000/- in his name and Rs. 5,00,000/- in the name of his wife. Complainant was assured that he would receive returns at the rate of 15%. Complainant had made payments by cheque. One cheque for Rs. 5,00,000/- was issued in the name of Karan Dodani and second cheque was issued in the name of Shweta Grover.

Amounts were transferred in their respective accounts.

3) On 11/08/2012, Karan had invited the complainant and Vaibhav Devnani, another investor to hotel Mainland China. There they met Karan, Shweta, Sandip Shrivastav and present applicants who happen to be parents of Shweta Grover. Mother of Shweta i.e. applicant no. 2 has retired as officer from the bank and applicant no. 1 happens to be producer of some old Hindi films. Complainant was informed that present applicants assist Karan and Shweta in running the business. That they collect the amounts of investment and after stipulated period, amounts are returned with interest. Complainant was also informed that present applicants do the work of allotment of funds of the investors. They were also informed that they may get more investors and they have to just inform present applicants and thereafter, applicants would go and collect the cheques. That the investors need not make any efforts to go to the office of the applicant. Complainant had then decided to invest Rs. 90,00,000/-. Complainant was informed that present applicants would collect the cheques from his office. On 17/08/2012, complainant had given them the cheques. The cheques were entrusted with applicant no. 1 in the presence of applicant no. 2 and Sandip Shrivastav. On 12/09/2012, additional cheques

were given. By July 2012, complainant had invested about Rs. 1,65,00,000/- and his wife had invested Rs. 50,00,000/-. During the period November 2012 to March 2013, Karan had deposited Rs. 11,54,750/- in his account and Rs. 4,52,500/- in the account of his wife Niraja. From January 2013, all the persons above mentioned were evading to meet the complainant. He made enquiries. He had contacted the present applicants also on various occasions, however, they evaded to give him proper answers. Complainant and other investors requested Karan and Shweta to return the amounts. There was negotiation and in the course of negotiation, complainant and others were informed that Karan and Shweta would pay Rs. 20 Crores by January 2014 and till then complainant and others should not trouble them. They had given some cheques, which were dishonoured.

4) It is pertinent to note that on 19/11/2013, complainant had received e-mail from Karan informing him that he has deposited Rs. 3 Crores in Punjab National Bank from Standard Chartered Bank. Complainant had enquired with Punjab National Bank and had learnt that no amount was transferred in his name. He also made enquiries with Standard Chartered Bank and it was clear that Karan had sent a fake message to the complainant.

Complainant had soon realized that Karan was sending fake messages to him. Complainant had realized that all of them, including present applicants had cheated him and many others. He was therefore, constrained to lodge a report on the basis of which crime no. 67 of 2014 was registered for offence punishable under section 406, 420 r/w 34 of Indian Penal Code.

5) Applicants herein happen to be parents of Shweta Grover. In the course of investigation, one Nigah Sayad had given a written statement to Senior Police Inspector, informing that in January 2011, she had met Karan Dodani and Shweta Grover who were introduced to her family by present applicant no. 2, who was working in her father's office. That applicant no. 2, Karan and Shweta induced Nigah to start a business in Forex Trading jointly with a small investment of Rs. 2 to 3 Lacs. Nigah had just completed her studies in Bachelor of Computer Science and was trying to find out some job in IT company. She accepted the proposal with an intention to do some business and make a place in life. It was decided that they would form a private limited company with equal share capital by Nigah and her mother Nisha Sayad, Karan and Shweta on the other side. They met a broker who made office available on rent at unit no. 201, 2nd floor, Morya Landmark-I, New Link

Road, which belonged to one Ahuja family. Deal was finalized, however, company was not yet formed and Ahujas were not very comfortable to deal with Karan and Shweta and therefore, leave and licence agreement was signed by Nigah Sayad with Ahuja in February 2011. They had decided to run a company in the name and style of Aracelia Forex Trading Pvt. Ltd. Documents were submitted in the month of April 2011. Subsequently, Nigah Sayad received an appointment letter from M/s Igate Patni Computer System Ltd. and therefore, she has expressed her inability to continue in the said business. She and her mother had opted out of the business and informed Karan and Shweta about the same. They resigned from Directorship of the said company. Their resignation was acknowledged by Karan and Shweta. It is clear that applicant no. 2 was instrumental in opening the said company. That statement of accounts of both applicants would show that they had received several amounts in their own accounts.

6) Applicants had filed Criminal Application No. 96 of 2015. This Court (Coram: P. D. Kode, J.) (Retired) by an order dated 20/01/2015, had granted interim relief in favour of present applicants. Application was finally heard on 09/07/2015. In the course of hearing of this application this Court (Coram:

Smt. Sadhana S. Jadhav, J.) had perused the papers of investigation including statement of accounts of present applicants who were present in the Court. Learned counsel for the applicants had argued the matter at length and had submitted that applicants are not beneficiaries of the amounts. At one stage, a proposal was also been made to repay the amounts of the complainant by saying that they would contact Karan ands Shweta who happened to be husband and wife. It was urged before this Court that Karan and Shweta are in Dubai. They were in Dubai on the date of registration of offence. Present proceedings are pending before M.P.I.D Court. This Court had informed learned counsel appearing for the applicants that this is an economic offence, a white colour crime where people are being induced to deposit amounts in a particular scheme. A farce is made that they would receive good returns. Returns are given in first few months and thereafter, investors are duped. The Courts normally hold that initiation of criminal prosecution is not a recovery proceeding and therefore, accused are benefited. In the present case, proceedings are before M.P.I.D. Court and all efforts can be made to recover the said amount. Applicants had brought it to the notice of this Court that principal accused are in Dubai and no action is being taken against them.

Learned APP, upon instructions submits that look out notice is issued against principal accused on 23/07/2014. Look out notice would not serve any purpose, if they do not choose to come to India. Learned counsel for the applicants at that stage, in the course of hearing on 09/07/2015 had submitted that applicants being old aged and partners of said firm deserve grant of pre-arrest bail as they are in India.

7) Upon perusal of papers of investigation, it was clear that applicants are instrumental in inducing people to invest amount and cheat them subsequently. This Court was not inclined to grant anticipatory bail. Learned counsel for the applicants had taken instructions from applicant no.2 in the Court room and upon specific instructions had sought liberty to withdraw the application. This Court had allowed applicants to withdraw the application in the interest of justice. This Court (Coram: Smt. Sadhana S. Jadhav, J.) had protected the applicants till 5.00 p.m. of 21/07/2015 i.e. when they would present themselves before the Court of concerned Magistrate. This Court had directed learned Magistrate to consider the application filed by applicants under section 437 of Code of Criminal Procedure, 1973 and also find out as to whether present applicants had made any arrangement to satisfy the claim of

complainant as well as any other investor (if, any). It is pertinent to note that application was allowed to be withdrawn and was disposed of by an order dated 09/07/2015.

8) Applicants had challenged the said order before Hon'ble Apex Court by filing Special Leave Appeal No. 5717 of 2015. Hon'ble Apex Court by an order dated 21/07/2015 has passed the following order.

> "UPON hearing the counsel the Court made the following
>
> **O R D E R**
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> The special leave petition is dismissed."

9) Thereafter, present applicants have filed this successive application.

10) Learned APP has drawn the attention of this Court that it is averred in the synopsis in item no. 9 as follows :

> "The Advocate for the Applicants withdrew the Anticipatory Bail Application without taking necessary instructions from the Applicants."

11) It is a matter of record that this Court would clearly recollect that applicant no. 2 was present in the Court. Applicant no. 1 was seated in the Court and learned counsel had taken instructions in the court room and

therefore, a misleading statement is made that application was withdrawn without obtaining necessary instructions.

12) Thereafter, in item no. 10 in the synopsis, it is mentioned that Hon'ble Supreme Court while disposing of SLP (Cri)/5717/2015 filed by applicants was pleased to suggest to the applicants to approach this Hon'ble Court again for seeking anticipatory bail. The said averment is not made in the memorandum of application. Learned counsel for the applicants submits that said averment is made on the basis of instructions given by applicants. However, there is no such speaking order passed by Hon'ble Apex Court. All this would reflect upon the conduct of the applicants that right from the inception, they had an intention to cheat. The very fact that a misleading statement is made that application was withdrawn without obtaining instructions is sufficient to draw an adverse inference against the applicants. This Court recollects that on 09/07/2015, application was argued at length. In the midst of arguments also, learned counsel who had put in best of efforts was taking necessary instructions from the applicants. All the queries made by the Court were being specifically answered by applicant no. 2.

Learned APP submits that applicants had given three residential addresses.

Applicants were protected by this Court ill 5.00 p.m. of 21/07/2015. Investigating agency had noticed that applicants had not surrendered before the concerned Court and therefore, had made enquiries at all addresses given by the applicants and that applicants were not found at all three given addresses. Investigating officer has also recorded in the case diary that cellphones which were being used by the applicants are switched off and therefore, investigating agency is not able to locate the applicants. Needless to say that conduct of the applicants speaks for itself and therefore, custodial interrogation in the present case would become imperative.

13) Learned counsel for the applicants submits that applicants were protected by the Sessions Court and granted interim relief. They had attended the police station on more than 100 occasions and had co-operated with investigating agency. This Court cannot be oblivious of the fact that same contention was raised on 09/07/2015 to impress upon the court that they had been to the police station and therefore, custodial interrogation is not necessary, however, on that day also, Investigating Officer had informed the Court that applicants only attend the police station. Under the garb of old age, they do not co-operate with investigating agency and refused to give any

statement and hence, purpose of giving attendance to the police station would become futile.

14) In view of the reasons mentioned herein above, this Court is of the opinion that application, being sans merits, deserves to be rejected. Investigating agency shall take necessary action as there is no relief in favour of applicants. All necessary steps be taken to see that applicants do not flee from India. Investigating agency shall give necessary notice to Passport Authority of India.

O R D E R

(i) Application, being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)