

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1162 OF 2015

Sachin Dattatray Vaste & Ors.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. Aniket Nikam, Adv. for the applicants.
Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 15th December, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.347 of 2012 registered at Sarkarwada Police Station, Nashik for the offences punishable under Sections 406 and 420 read with 34 of the IPC and Section 3 and 4 of the MPID Act.

2. The case of the prosecution in brief is that the company called Wekalp Trade Solutions through its director Mr. Mayank Navin Dhruv and other employees and agents had induced several people to invest money in the said company with an assurance of handsome interest and other benefits and subsequently cheated the investors. The said crime came to be registered pursuant to the FIR lodged by Vimal Kiran Modak. The applicants apprehending their arrest had filed

an application for anticipatory bail before the learned Addl. Sessions Judge, Nashik. The said application came to be dismissed vide order dated 27th July, 2015. The applicants, therefore, filed this present application for anticipatory bail in exercise of the powers under Section 438 of Cr.P.C.

3. Mr. Nikam, the learned counsel for the applicant has submitted that the applicants are neither the directors nor the employees of the company and that they were working as agents of the company. He has further submitted that the applicants have themselves invested money in the company and having been paid handsome assured returns, they had enrolled several other members in the company. He has further submitted that the main accused involved in the crime is already released on bail. The present applicants are not the beneficiaries of the company and are not involved in the crime as alleged.

4. Mrs. Mulekar, the learned APP for the State submitted that the applicant No.1 are not only an agent but he was working as a Sales Manager. She has further stated that the applicant No.1 had taken the original documents from the witnesses and that his presence

is required for custodial interrogation and for recovery of the original documents.

5. I have perused the records and considered the submissions advanced by the counsels for the respective parties. The records prima facie reveal that Wekalp Trade Solutions of which Mayank Dhruv was the MD was engaged in online trading. The FIR vis. a. vis. the statements of the witnesses prima facie reveal that the said company had induced several investors to invest in the said company by assuring handsome returns. It is alleged that the said amount was utilised by the company and the directors for their own purpose and that the investors were neither paid the benefit / returns as assured nor principal amount invested by the investor was refunded. The company is, therefore, alleged to have cheated several investors to the tune of Rs.7 Crores and above.

6. It is pertinent to note that though the witnesses have stated that the applicant No.1 herein was working as Sales Manager, prima facie, there is no material on record to indicate that he was in fact a employee of the company. Similarly the other applicants are also not employees of the company but were merely the agents of the

company. The applicants had themselves or through their family members invested money in the company and were paid the assured returns. The applicants had therefore enrolled other members in the company for getting assured incentive. It is to be noted that the applicants are not the directors or the employees of the company. They were not in any manner responsible for running of the company, and are not the beneficiaries. Furthermore pursuant to the interim bail granted by this Court, the applicants have reported to investigating officer and they have been interrogated thoroughly. This being the case the presence of the applicant is not required for custodial interrogation.

7. Under the facts and circumstances, the applicants are entitled for bail. Hence the application is allowed under the following terms and conditions.

1. In the event of arrest of the applicants Crime No.347 of 2012 registered at Sarkarwada Police Station, Nashik, the applicants shall be released on bail bond of Rs.20,000/(Rupees Twenty Thousand Only) each with one or two sureties in the like amount to the satisfaction of the Sessions Judge, Nashik.

2. The applicants shall report to investigating officer for 4 days from 10 am to 1 pm and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicants shall not tamper with the evidence or influence complainant and witnesses in any manner.
4. The applicants shall not leave Nashik District till filing of the chargesheet without prior permission of the Special Judge, Nashik.

(ANUJA PRABHUDESSAI, J.)