IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1392 OF 2016

Jyotika w/o. Paras Yadav. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Devmani J. Shukla, advocate for applicant.

Mr. S.H. Yadav, APP for State.

Mr. Mahesh S. Bansode, API, Kothrud Police Station, Pune city.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 20, 2016

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending her arrest in Crime No. 279 of 2016 registered at Kothrud Police Station for the

offence punishable under Section 406, 420 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 16/6/2016 one person namely, Gaurav Vishnu Sirsat lodged a report at Kothrud Police Station alleging therein that he, his family and his family friends had decided to go for a tour. They had learnt about Link On India Tours and Travells Private Limited which was run by Paras Yadav and his wife i.e. the present applicant at Ahmedabad, Gujarat. They had learnt that Link On Company was running a scheme, where one have to deposit a principal amount and after 10 months, there would be return of interest at the rate 10% per month. On 18/2/2016, the complainant alongwith his family and family friends had been to Ahmedabad. They met the present applicant and her husband Paras Yadav in their office. Both husband and wife had explained the scheme to the complainant. The complainant found it to be a reasonable scheme and therefore, he issued a cheque of Rs. 5 Lakhs. The complainant had entered into an agreement with the present

applicant and her husband. They had also offered that they could pay more amount and could earn similar return and hence, the complainant had also issued post-dated cheque in favour of the husband and wife for a sum of Rs. 3 Lakhs. They had given post dated cheque. After a week, the husband of the applicant had contacted the complainant and asked him as to whether he would be interested in opening an office at Pune and that they would help him to set up the office. Accordingly, the complainant believed in the applicant and husband of the applicant and therefore, had opened office of Link On India Tours and Travells India Pvt. Ltd. at Kothrud Road, Pune on 3/4/2016. The present applicant alongwith her husband was present at the inauguration of the office. The complainant was expected to explain the scheme to customers/proposed tourists. Accordingly, the complainant had booked the tours between 5/4/2016 to 17/5/2016 and had deposited an amount of Rs. 17,47,500/- in favour of Paras Yadav through website "Pay you money". He has also deposited the amount of other tours booked with the office at Kothrud. Subsequently, people started demanding tickets of the tours. The complainant had enquired with Paras Yadav as to why they are not receiving the tickets and whether he should continue to take booking. Paras Yadav gave him evasive answers. He then contacted the present applicant. Both the husband and wife evaded to answer the calls of the complainant. Both the husband and wife were instrumental to instigate the complainant to book tours and travels by giving false promises and hence, they had misappropriated an amount of Rs. 17,47,500/-. On the basis of the report, Crime No. 279 of 2016 is registered.

4 Perused the papers of investigation. The involvement of the present applicant is writ large on the face of the record. However, it would not be appropriate for the investigating agency to discuss the nature of evidence of the statement of witnesses

5 The learned Counsel for the applicant submits that in fact, it was the husband of the applicant, who is the beneficiary and he has

already been taken into custody and therefore, the custodial interrogation of the applicant would not be imperative.

6 Upon perusal of the papers of investigation, it appears that there was an element of cheating right from the inception. The whole scheme was floated with intention to cheat. It is clear that such schemes are floated to cheat the public at large by showing reasonable and attractive offers which are never intended to be executed or implemented. The papers of investigation would reveal that the present applicant was instrumental in answering the calls of the customers. There is record showing messages from the applicant to the customers since April, 2016, which would clearly indicates that soonafter opening the office of Pune, the charge was taken over by the present applicant, who was seeking sympathy from the customers on the ground that she is not in contact with her husband. She had actually given an offer to consumers assuring handsome tours with vacation at three stars hotels. The said scheme was never executed. The message dated 9/5/2016 from the complainant would reveal that

he had informed the present applicant that he has 14 tickets, the cost of which is Rs. 2.5 Lakhs. He had quoted that it would be her responsibility. Reply of the present applicant was "all right, do not worry. Mai Parasko call karti hu.". The complainant had also informed her on the same day that people are getting angry. She informed the complainant that her husband is not receiving the calls. She informed the complainant that till her husband is located, the complainant would face the trouble. She had also informed at one stage that the phone call has got diverted in tension.

7 It is not the contention of the applicant that her husband had abandoned the house in April itself and his whereabouts were not known till the first information report was lodged. The first information report is lodged on 16/6/2016. Within two days i.e. on 18/6/2016 the husband of the applicant was taken into custody from Ahmedabad i.e. from his own house.

8 Needless to say that it is apparent on the face of the record that both the accused had an intention to cheat people at the inception i.e. at the time of floating of the scheme and hence, the applicant herein does not deserve pre-arrest bail.

9 It is a common feature these days to play with the emotions of the proposed customers by offering attractive and handsome proposals. It is a cheating of the public at large. Deception practised on a person is the gravamen of offence of cheating. In the present case, the deception is with a dishonest and fraudulent intention. Hence it constitutes an offence of cheating. The tourists were exposed to loss because the representation was false and it was made with a view that the persons should act upon it. The applicant and her husband were fully aware that they are not going to act upon the promises extended to the tourists. Liberty of the individual has to be weighed against the larger interest of the society.

10 The application being sans merit, stands rejected and disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)