IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 127 OF 2017

Sou. Vidya Rajesh Kamble ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Priyal Sarda i/b. Mr. Bhushan Walimbe, Advocate for the applicant.
Mr. Deepak Thakery, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: 25th January, 2017.

P.C.:

1. This Application is moved for pre-arrest bail under section 438 of Cr. P.C. The applicant/accused is prosecuted for the offences punishable under sections 420, 406 r/w. 34 of the Indian Penal Code and under sections 3 and 4 MPID Act in C.R. No. 283 of 2016 registered with ondhawa Police Station, Pune.

2. The applicant/wife is the wife of principal accused Rajesh Kamble, who is the sole proprietor of Evolve Consultancy situated at Pune. It is the case of the complainant Abid Ahmed Shaikh that in the month of February, his friend introduced him to Rajesh Kamble, husband of the applicant/accused in his office at Brahma Majestic Shop no. 36. At that time, Rajesh told that on investment, his firm offers a very good interest and the principal amount remains intact. As the offer was very attractive, the complainant accepts it. He also informs his family members about the said offer. Believing on the representation made by Rajesh Kamble, the

complainant and his family members made investment in the year 2014 and 2015 to the tune of Rs.1,87,50,000/-. Initially for one year they got monthly returns. The complainant reinvested the returns again with the same company, however, after one year monthly returns was stopped. The complainant went to the office of Rajesh Kamble and inquired about the same, at that time, he gave evasive answers. In October 2015 Rajesh Kamble left to Europe and after his return, in November, 2015 he called all the meeting of all the investors at Hadapsar and assured them that he would return the money to everybody. He issued postdated cheques of 30th April, 2016 to all the investors. Thereafter the complainant came to know that the entire family of Rajesh Kamble had gone to Dubai. As there were doubtful regarding return of their money, in March 2016 the complainant and his family members went to the office of Rajesh Kamble and there they found wife of Rajesh Kamble, i.e., applicant/accused and other members started attending the office. However, they did not get the money back. So also the cheques dated 30th April, 2016 which were deposited were bounced and the said office was closed down by the applicant/accused in the month of May, 2016. Thereafter the complainant made inquiries and he found that the principal accused Rajesh Kamble and his wife, i.e., applicant/accused both along with their other associates has established firm, namely, Evolve Consultancy and by giving false promise, they all induced many persons to invest and thus nearly 74 persons invested and were cheated for Rs.5,87,20,000/- and the complainant himself was cheated for Rs.1,87,50,000/-. Thus, in all, the husband of the applicant/accused along with applicant/accused and his associates have cheated the investors, as per the information collected, to the tune of Rs.7,94,70,000/-. Thus, the complainant on 12th June, 2016 approached Kondhwa Police Station, Pune and pursuant to which, the offence was registered at C.R. No. 283 of 2016.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is the wife of principal accused and has not played any role. Evolve Consultancy is sole proprietorship. The complainant has not stated anything about the applicant/accused. The police and the complainant have falsely implicated the applicant/accused in this case only because she is the wife of the principal accused. It is further argued that the applicant/accused was on interim bail since last 4 months and has been attending the police station regularly and therefore, her custodial interrogation is not required. The learned counsel further submitted that immovable property and bank accounts of the applicant/accused and of the firm are sealed by the police.

4. Learned APP opposed this Bail Application. He submitted that the police have recorded the statements of many investors and from their statements, it is transpired that the applicant/accused was not roped in this offence only because her status as wife of principal accused but she was

actively involved in making a false representation before the people and induced many investors to invest the money and the money was never returned to them. Learned APP relied on the reports submitted by the police. The principal accused is also not arrested and is absconding. Learned APP submitted that custody of the applicant/accused is necessary.

5. Perused the FIR and the papers placed before me. *Prima facie* it appears from the record that the applicant/accused was not passive in the business of her husband but she participated actively in the business of getting investors and giving false assurance to them. Witnesses like Madhavi Chavan, Jairam, Rizwan Sayyed, Shehanaz Mujawar and Fatima Shaikh have invested money on believing the promises given by the applicant/accused. However, the applicant/accused is the beneficiary and in her bank account, amount of Rs.1,47,45,000/- was transferred so also in her other account of Kotak Mahindra Bank, an amount to the tune of Rs.10 lakhs were transferred from the account of Evolve Consultancy. Investigating officer could collect the information on the basis of the statements of witnesses that in the absence of Rajesh Kamble, applicant/accused and Amol Shah used to operate all the transactions and looking after the affairs of the firm. They have accepted the amount of the investors. So also, the absconding accused Rajesh Kamble and applicant/accused have issued promissory notes and cheques on 1st

November, 2016 and all the promissory notes and cheques were bounced.

6. It appears from the record that the custody of applicant/accused is necessary considering the active role played by her, so also there is cheating and criminal breach of trust of huge amounts of many persons. Her custody is necessary to find out how the amounts accepted from the various investors and where the amounts were invested or siphoned. On 11th February, 2016 the absconding accused and applicant/accused have sold their three flats at Lavasa and at that time absconding accused was present in the office of Registrar. Considering these facts, I am of the view that custody of the applicant/accused is necessary to obtain important information. Hence, Application for anticipatory bail is rejected.

(MRIDULA BHATKAR, J.)