IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1070 OF 2018
WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1089 OF 2018

Balkrushna Sopan Bhorkade. ..Applicant.

V/s.

State of Maharashtra. ..Respondent.

Mr. Shailesh Arjun Chavan, advocate for applicant.

Mr. S.R. Agarkar, APP in ABA 1070/18.

Mr. Prashant Jadhav, APP in ABA 1089/18.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JULY 30, 2018.

P. C. :

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

2 These are the applications under section 438 of the Code of Criminal Procedure, 1908. The applicant herein is apprehending his arrest in Crime No. 9 of 2013 registered at Satpur Police Station and in Crime No. 51 of 2018 registered at Yeola City Police Station for offence punishable under section 420 read with section 34 of the Indian Penal Code. The accusation arises out of similar transaction with two different complaints registered at two different police stations.

3 It is the case of the prosecution that on 7/4/2018 Balasaheb Pimparkar, complainant in Crime No. 51 of 2018 lodged a report at the police station alleging therein that the present applicant had floated a scheme in the name of Pleasure Wealth Management Private Limited. The investors were given an idea that the rate of interest for the purpose of investment would be 15% per annum. As far as crime No. 51 of 2018 is concerned, the investors were to deposit for a period of one year. At the time of maturity of the said deposit, the complainant had been to the company demanding the return of the invested amount with interest at the rate of 15% per annum. The complainant and others kept on persuading the applicant to return the amount. Initially, the applicant had evaded to reply and thereafter, the applicant had issued a cheque to be drawn on Bank of India to the tune of Rs. 4,75,000/-. The cheque was deposited in District Cooperative Bank at Patoda. However, he was informed that the balance was insufficient to honour the cheque. The complainant was then constrained to file proceedings under section 138 of the Negotiable Instruments Act.

4 The learned Counsel for the applicant submits that in fact, since the proceedings under section 138 of the Negotiable Instruments Act are pending, the applicant deserves pre-arrest bail.

5 As against this, the learned APP has filed report on record, on the basis of which, it is submitted by the learned APP that the cheque was not issued with a bonafide intention, but with intention to cheat the complainant. Moreover, the rate of interest that was assured was 15 %, which is almost double the amount of the rate of interest in nationalised bank and atleast 6 to 7 percent more than the cooperative banks. It is clear that several people similarly placed as the complainant have

suffered loss. They were lured with non-beneficial scheme claiming high benefits and hence, it is more than clear that the applicant has cheated the people and has committed an offence punishable under section 420 of the Indian Penal Code.

6 As far as Crime No. 9 of 2018 registered at Satpur Police Station is concerned, the complainant is one Sachit Kasar. He has alleged that the applicant had met Jyoti Chandaliya in the year 2010. She was also dealing with the shares. She had disclosed to several people that in the eventuality of investment with the company "Pleasure Wealth Management Pvt. Ltd.", they would receive interest at the rate of 11% per month. That the complainant had invested initially Rs. 6,50,000/- on 1/9/2010. As against the said investment made, she had issued a cheque of Rs. 6,50,000/- and an agreement was executed on 5/9/2010. Initially, the accused had given some return and thereafter, he was made partner in order to lure all his friends and relatives to invest in his scheme. Accordingly, he had requested his relatives and friends to invest in the said scheme. All the investors had realised that they had been cheated and the total amount invested was Rs. 2,07,00,000/-. Finally, they were constrained to lodge a report at the police station.

7 Learned Counsel for the applicant submits that the name of the applicant is not mentioned in the first information report on the basis of which Crime No. 9 of 2018 registered at Satpur Police Station and therefore, he deserves to be granted pre-arrest bail.

8 As against this, learned APP has demonstrated on the basis of the report that all the amount collected by Jyoti was invested in Pleasure Wealth Management Pvt. Ltd., which was floated by the present

applicant. This Court had made a query as to whether the applicant desires to repay the amount. It is submitted by the learned Counsel for the applicant that the applicant happens to be an agriculturist and it would be beyond his control to return the amount. Innocent people have been lured to deposit their hard earned money in a bogus scheme and have been cheated. In view of this, the applicant does not deserve to be granted pre-arrest bail.

9 The observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973.

10 Both the application being sans merit stands rejected.

11 It is made clear that the investigating agency would be at liberty to take coercive action.

[SMT. SADHANA S. JADHAV, J.]