IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1868 OF 2018

Mrs. Nancy Veronica Chettiar … Applicant
Vs.
State of Maharashtra … Respondent

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Mr. R.J. Baddam I/by S.R. Lex for the applicant.
Mr. Arfan Sait, APP for the Respondent-State.
Mr. Arvind P. Chandashire, PSI, Bangur Nagar Police Station is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 11th SEPTEMBER, 2018.

P.C.

1. This is an application for anticipatory bail in C.R. No. 89 of 2018 registered with Bangur Nagar Police Station for the offence under Section 420 of Indian Penal Code.

2. The FIR was lodged on 20th March, 2018 by Smt. Sheetal Manish Shah. In the FIR it is alleged that in the month of January, 2018 the complainant and her family were planning to go for tour of Singapore and Malasiya. They gave call on Justdial. They were contacted by one Dharmesh Soni who persued with them for tour. On 28th January, 2018, they visited the office N.B. Enterprises at Malad. Dharmesh Soni met them near gate of Evershine Mall.

Thereafter all of them had visited the office of N.B. Enterprises. Near about 6 to 7 persons were present in the office. They were introduced to the owner of the business Shri Rajesh Shah, Shri Bhairav Bhavsar and the applicant. They also provided information about tour. They were informed that for visiting Singapore and Malasiya tour for 12 days and 11 nights. every persons would be charged Rs.95,000/-. The amount was fixed to the tune of Rs.85,000/-. The tour was to commence in May, 2018. The total amount of a person was supposed to be Rs.7,65,000/-. At that time, the complainant deposited an amount of Rs.51,000/-. However, the receipt was not provided. On 30th January, 2018, Dharmesh Soni gave a call to the complainant and informed her that he would visit her for giving receipt for an amount of Rs.51,000/-. Thereafter, Dharmesh Soni visited the house of complainant and furnished the receipt. He also represented that in the event the complainant deposits the specific amount she would be entitled for certain facilities. Thereafter, the complainant issued a cheque for an amount of Rs.3,25,000/-. Subsequently, it was noticed that office of N.B. Enterprises was closed and the applicant, Bhairav Bhavsar and Rajesh Shah had disappeared. Hence, the FIR was lodged for offence punishable under Section

420 of Indian Penal Code.

3. Learned advocate for the applicant submits that the applicant is not incharge or the owner of the business. She was only assisting her husband who is also accused in the said case. It is submitted that there was no intention to deceive the complainant and others. It is submitted that due to financial constraint the amount could not be refunded to the complainant. It is submitted that tour was arranged in the month of May, 2018 and prior to that complaint was lodged by the first informant. Learned counsel for the applicant drew my attention to the shop and establishment license which according to him is issued in the name of her husband since he is incharge of the business. Learned counsel also pointed out leave and licence agreement executed between the vendor of the premises and the proprietor of N.B. Enterprises. It is submitted that custodial interrogation of the applicant is not necessary.

4. Per contra, learned APP submits that in the First Information Report clearly reflects that the applicant was present in the office when the assurance were made to complainant. It is submitted that during the course of investigation the statement of several persons were recorded by the police which show complicity of the

applicant. It is further submitted that several other accused persons were involved in this crime against whom offence is registered.

5. On perusal of the documents on record and considering the submissions advanced by the learned APP, it is apparent that the applicant and others had induced the complainant and other persons to part with the amount on the pretext of depositing the said amount for tours arranged by M/s N.B. Enterprises. However, the applicant and others had cheated the complainant and other persons. Considering the nature of the allegations, the evidence collected by the police, the contentions of the applicant cannot be considered for granting relief in this application. Applicant complicity is revealed during investigation. The applicant was introduced as one of the owner of business. In the circumstance, no case for grant of anticipatory bail is made out. Application stands rejected.

Sachidanand Kuttan Nair

Digitally signed by Sachidanand Kuttan Nair Date: 2018.09.18 10:59:18 +0530

(PRAKASH D. NAIK, J.)