

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2462 OF 2018

Mohammed Salim Ansari, Age 52 years,
Occ.Service, R/o.Room No.71, 7th floor,
51/51A, Badat/Sayyed Mansion, Memonwada Road,
Mohd.Ali Road, Mandvi, Mumbai-400 003. Applicant

versus

The State of Maharashtra Respondent

Mr.Akram Kapoor for applicant.

Mr.R.M.Pethe, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 11th December 2018

PC :

1. This is an application for anticipatory bail in CR No.94 of 2018 registered by Economic Offences Wing for offences under Sections 409, 420, 120-B of Indian Penal Code and under Sections 3,4,5 and 6 of Maharashtra Protection of Interest of Depositors Act, 1999 ('MPID Act'). The offence was initially registered vide CR No.178 of 2018.

2. The applicant preferred application for anticipatory bail before the Sessions Court which has been rejected. The case of prosecution is that the complainant Shahi Ilahi Shaikh had lodged FIR on 23rd October 2018 against Heera Gold Exim Limited and other associated concerns and against the persons concerned with the said entities. It is alleged that the complainant was induced to invest amounts in the said entities by the marketing executive of accused companies with the promise that dividends will be earned in respect to the said

investments. However, the promises were not fulfilled. The complainant was cheated for Rs.50 lakhs. It was further alleged that several such persons were cheated and the investors were duped to the extend of more than Rs.500 crores.

3. Learned counsel for applicant submitted that the applicant has been falsely implicated in this case. He was employed as a marketing executive and himself has invested amount. The applicant has sustained loss. It is submitted that the applicant has acted as employee of the accused company and is not beneficiary and not misappropriated the amounts. The complainant was interested in pre-mature refund of his amount and the requisite documents submitted by him for the release of amount was forwarded by the applicant to the company. However, since the complainant did not receive the amount, the applicant has been implicated in the said offence. The applicant himself has invested about Rs.41 lakhs and he is also a victim and aggrieved person. He was merely acting as marketing executive of Heera Group and was handling office formalities and was not involved in inducing the investors to invest in Heera Group. The applicant has not received any amount as the entire amount and the entire amount invested by the complainant and his brother was deposited in the bank account of Heera Group. It is submitted that the co-accused had undertaken to deposit the amount in the Court and showed her bona fide intention to repay the amount to the investors. The documents are seized by police and custodial interrogation of the applicant is not necessary.

4. Learned APP further pointed out that the applicant has major role in the transactions. He was instrumental in appointing about 25

agents which used to collect money from 10,000 investors. It is submitted that there are about 17,000 investors in this case. No relief may be granted to the applicant. The applicant has played a major role in the transactions. It is also submitted that about 7,000 investors have invested the amount through applicant.

5. I have perused the FIR and other documents. Considering the submissions advanced by learned APP and on perusal of the FIR, it is apparent that the applicant has played a vital role in the transactions. Several investors were induced to invest money which is to the tune of crores of rupees. As stated above, the applicant had appointed several agents and through which about 10,000 investors had invested money. From the aforesaid circumstances, it is apparent that the applicant has played a major role in the crime and hence case for grant of anticipatory bail is not made out. Accordingly, Criminal Anticipatory Bail Application No.2462 of 2018 is rejected.

(PRAKASH D. NAIK, J.)

MST