IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2633 OF 2019

Anil Gopaldas Chhugera ... Applicant
versus
The State of Maharashtra ... Respondent

Mr.A.B.Tajane with Kavita Shinde for applicant.
Mr.Prashant Jadhav, APP, for State.
Mr.Dilip D. Gade, ASI, Hadapsar Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 5th December 2019

PC :

1. This is an application for anticipatory bail in CR No.1021 of 2019 registered with Hadapsar Police Station for offences under Sections 420, 406 r/w 34 of Indian Penal Code. The FIR was lodged on 18th October 2019.

2. The case of the complainant is that she is employed with Axis Bank as Manager. Anil Chhugera used to visit bank and complainant was acquainted with him. In 2015 she had visited shop of applicant no.1. At the instance of applicant no.1 the complainant deposited Rs.10,000/- per month towards bhisi scheme in June-2015. Thereafter she deposited money in second bhisi. She received Rs.1,00,000/-. The complainant told applicant no.1 that she want to purchase land for constructing house. She was informed that applicant no.2 is in real estate business. Applicant no.1 told her to buy property through applicant no.2. He also told her to keep

amount of Rs.1 lakh with him. She was introduced to applicant no.2. She was informed about available property at Wagholi for Rs.5 lakh. To accumulate money she invested in two more bhisi schemes. Her money was retained by accused. Complainant also gave money to accused. She parted amount towards property from time to time. Accused also took bracelet. She parted amount of Rs.15,75,000/- for land at Wagholi which was not made available to her.

3. Learned counsel for applicants submitted that prior to registration of this FIR, a complaint was lodged by the complainant with Pune City Police Station vide CR No.755 of 2019 on 7th August 2019 for offences u/s 354, 323, 507, 504, 506, 509 of IPC. It is submitted that the complainant was indulging into money lending business. The element of cheating is not made out in the present case. The complainant is working in Bank and it is difficult to believe that he would part money for property.

4. Learned APP submitted that the complainant has been deceived by the applicants by not transferring the property in her name. The amount was not returned. The complainant was represented that the property will be sold to her. However, the premises were not handed over. Documents relating to property were handed over to the complainant. Inquiries were made with the persons in whose name property stands who stated that he did not hand over such documents to the applicants. It is submitted that text message forwarded by the applicants clearly states that they had admitted the liability. The applicants have threatened the complainant. It is submitted that the amount of Rs.18,64 lakhs is involved in this case and only Rs.2.89 lakh is refunded.

5. I have perused the FIR. The FIR mentions that from time to time money was handed over to the applicants. The FIR also mentions that on 22nd October 2019 the complainant had withdrawn amount and parted the said amount to the applicants. It is pertinent to note that earlier FIR vide CR No.755 of 2019 was lodged on 17th August 2019 alleging offence of outraging the modesty. The aforesaid amount was withdrawn after lodging the earlier FIR. There is no evidence to show that any property documents were executed between the applicant and the complainant. Learned APP relied upon certain statements of witnesses in support of his contention that complainant had parted with amount to the complainant from time to time. The complainant has been investing in bhisi since 2015. The documents relating to property were allegedly given to the complainant by the applicant. However, there is no cogent evidence to support said fact. In 2016 the applicants had allegedly promised the complainant of handing over the property, however, in spite of that, the transactions were executed in 2018. In the previous FIR there is reference to the fact that the applicant no.1 had informed her that if she invests money with his brother (applicant no.2), she would earn profits. Thereafter she told him that due to financial difficulty she is not interested in buying property. There is no reference to the allegations reflected in present FIR. The version of complainant in present FIR is contradictory to earlier FIR. In the circumstances, it is clear that the matter relates to money transaction and custodial interrogation is not warranted.

6. Hence, I pass following order :

ORDER

(i) Criminal Anticipatory Bail Application No.2633 of 2019 is allowed and disposed of;

(ii) In the event of arrest of applicants in CR No.1021 of 2019 registered with Hadapsar Police Station, the applicants be released on bail on furnishing PR bond in the sum of Rs.25,000/- each with one or two sureties in the like amount;

(iii) The applicants shall report the Investigating Officer between 16th to 20th December 2019 between 10 am and 12 noon and thereafter as and when called for till filing of charge sheet.

(PRAKASH D. NAIK, J.)

MST