

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 47 OF 2021

- 1) Sanjay s/o Balasaheb Thombre,
Age 50 years, Occ. Agriculture,
R/o. Dindrud, Tq. Majalgaon,
Dist. Beed.
 - 2) Indubai w/o Sanjay Thombre,
Age 45 years, Occ. Household,
R/o. Dindrud Tq. Majalgaon,
Dist. Beed.
- ... **Applicants.**

VERSUS

The State of Maharashtra,
Through Police Station Udgir (Rural)
Tq. Udgir, Dist. Latur.

... **Respondent.**

...

Advocate for the Applicants : Mr. J.M. Murkute.
APP for the Respondent/State : Mr. P.G. Borade.

CORAM : **MANGESH S. PATIL, J.**
DATE : **04.02.2021.**

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure as the applicant apprehending their arrest in connection with Crime No. 388/2020, registered with Cantonment Police Station, District Aurangabad for the offences punishable under Sections 420, 417 read with Section 34 of the Indian Penal Code.

2. Shortly stated the allegations are to the effect that the applicant No. 1 suggested to the informant and several other persons that his son has been running a chit fund and by assuring handsome returns induced them to part with money but failed to honour the promise. In spite of repeated demands, the applicants and their two sons could not repay the money. The informant

realized that they all were duped the F.I.R. was lodged and the offence was registered.

3. It is to be noted that the two sons of the applicants have already been granted anticipatory bail by the Sessions Court.

4. So far as the applicants are concerned, their learned advocate would submit that they are innocent. They have not made any promise either to the informant or other persons. Nothing was deposited. There is no record to show that any money was received by the applicants. The applicants are ready to cooperate the Investigating Officer. Their custodial interrogation is not necessary. They may be granted bail.

5. The learned APP submits that there is enough material to reveal that the applicants and the other two accused had lured the informant and other witnesses to deposit money regularly promising that they would get handsome returns. Considering the number of persons who have been cheated, there is every room to believe that the applicants and the other two accused have indulged in systematic conspiracy and have duped these persons. The money is to be recovered. Their custodial interrogation is necessary.

6. I have carefully gone through the papers. *Ex facie*, it is clearly a case of conspiracy to deceive persons/ the informant and the witnesses. At this juncture there is nothing to disbelieve the version of these persons. Each of them have specifically quoted the amount which they have deposited with the applicants and latters' failure to return in spite of persuasions. At this juncture this much of material is enough to show that the custodial interrogation of applicant No. 1 is necessary.

7. Though the name of the applicant No. 2 also appears in the F.I.R. even at one place she is also attributed for having given some promise, being a lady, in my view her custodial interrogation may not be necessary.

8. Considering the enormity of the crime and the stage of investigation, the application deserves to be allowed only to the extent of applicant No. 2.

9. The Application is partly allowed. In the event of arrest of applicant No. 2 Indubai w/o Sanjay Thombre, in connection with Crime No. 388/2020, registered with Cantonment Police Station, District Aurangabad for the offences punishable under Sections 420, 417 read with Section 34 of the Indian Penal Code, she shall be released on bail on her executing personal recognizance for an amount of Rs. 20,000/- and furnishing a solvent surety in the like amount, subject to the following conditions :

(a) She shall attend the concerned police station as and when called and shall cooperate the Investigating Officer.

(b) She shall not tamper the evidence or influence the witnesses.

10. The Application to the extent of applicant No. 1 Sanjay Balasaheb Thombre is rejected.

(MANGESH S. PATIL, J.)

mkd/-