

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

ANTICIPATORY BAIL APPLICATION NO.222 OF 2021

**NUSRAT ILAHI KHAN S/O. FAZAL ILAHI KHAN
VERSUS
THE STATE OF MAHARASHTRA**

WITH

ANTICIPATORY BAIL APPLICATION NO.223 OF 2021

**ISHRAT ILAHI KHAN S/O. FAZAL ILAHI KHAN AND ORS.
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr. Pawar Hemantkumar F.
APP for Respondent/State: Mr. V.M. Kagne

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CORAM : MANGESH S. PATIL, J.

DATE : 19.04.2021

PER COURT :

These are the Applications under Section 438 of the Code of Criminal Procedure as the applicants are apprehending their arrest in connection with Crime No.34/2021 registered with Jinsi Police Station, Aurangabad for the offences punishable under Section 406, 420, 120-B read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (herein after the MPID Act).

2. Shortly stated the allegations in the FIR are to the effect that by promising handsome returns by developing a land, all the accused including

the present applicants having hatched a conspiracy, induced the informant to part with huge money but failed to honour the promise and it was transpired that the criminal conspiracy was hatched to dupe the informant and it is pursuant to such conspiracy that he was made to part with money without intending to repay it.

3. The learned advocate for the applicants would submit that all the allegations are against the prime accused No.1. There is no partnership of any kind between him and the present applicants. There are several agreements entered into by the main accused with various persons, to which the applicants are not the parties. There are no criminal antecedents. They are ready to cooperate the Investigating Officer. Their custodial interrogation is not necessary and arresting them would unnecessarily put them to disrepute.

4. The learned advocate for the applicants would further submit that in the absence of any partnership between the accused *inter se* the provisions of the MPID Act would not be applicable.

5. The learned APP strongly opposes both the Applications. He would submit that at this juncture the very fact that the applicants happen to be the nearest relatives of the main accused is sufficient to infer that they all must have acted hand in gloves. Some of the money has been transmitted in the account of his wife who is one of the applicants. The other applicants are father, father-in-law and brother of the main accused. There are statements of witnesses corroborating the version of the

informant. There is every room to believe that all the accused must have indulged in some kind of conspiracy. They have made the informant part with huge sum, more than rupees one crore. Therefore merely because the agreement is entered into between the informant and only the accused No.1, no weight can be attached to that fact. The investigation is at a nascent stage. The Investigating Officer deserves to be given liberty to complete the investigation in the manner he wishes. The money has to be recovered. There is apparently an element of conspiracy, cheating and misappropriation which are serious offences. Custodial interrogation of each of applicants is necessary and the applications be rejected.

6. At the out set, as has been submitted by the learned APP, one will have to bear in mind the near relation between the main accused against whom there is ample material to be investigated to demonstrate that in all probabilities even the applicants must have had indulged in some kind of prior meeting before actually inducing the informant in parting with huge sum. The applicants are father, brother, wife and father-in-law of the main accused. In fact, the papers of the investigation would reveal that even some times moneys have been transferred in the account of the applicant wife of the accused No.1.

7. Besides there are statements of witnesses who have named and have attributed role to the applicants as well in similarly making them part with money under the promise of huge returns and having been deceived by all the applicants as well as the main accused.

8. Since the matter involves cheating to the tune of huge sums and the modus adopted to by the accused persons, their custodial interrogation is highly imperative for completing the investigation. It is a crime which is in the nature of an economic offence that too by resorting to some well hatched conspiracy.

9. Considering the aforementioned fact situation, the applicants are not entitled to anticipatory bail. The Applications are rejected.

(MANGESH S. PATIL, J.)

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