

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 267 OF 2021

1. Mangal W/o. Uttam Bhujbal,
Age 55 years, Occu. Agriculturist,
R/o. Talegaon Dhamdhere, Tq. Shirur,
Dist. Pune.
2. Yogesh S/o. Uttam Bhujbal,
Age 23 years, Occu. Agriculturist,
R/o. Talegaon Dhamdhere, Tq. Shirur,
Dist. Pune.

....Applicants.

Versus

1. The State of Maharashtra
2. The P.I. of MIDC CIDCO police station,
Aurangabad, Tq. And
District Aurangabad.

...Respondents.

...
Mr. H.V. Tungar, Advocate for applicants.
Mr. S.P. Sonpawale, A.P.P. for respondents.
...

CORAM : MANGESH S. PATIL, J.
DATED : 28/04/2021.

PER COURT :

1. The applicants are seeking bail in the event of arrest of applicants in connection with Crime No.41/2021 registered with M.I.D.C. CIDCO Police Station, Aurangabad for the offence punishable under sections 406, 420 r/w. 34 of the Indian Penal Code, 1860.

2. The sum and substance of the allegations as can be

descerned from the F.I.R. and police papers are to the effect that the other son of applicant No. 1 by name Akshay lured many persons to invest in share market promising high returns. Infact, it was a bluff and they were made to part huge money which has been misappropriated by Akshay. It has been alleged that applicant No. 1 happens to be mother and applicant No. 2, who is his brother, have also shared common intention with him in cheating and misappropriation. The offence is registered on the basis of a report lodged by one such investor.

3. After having heard both the sides and perusing the papers of investigation, it transpires that infact Akshay seems to be the main accused who had made the informant and other persons to invest money. It further transpires that in order to settle the matter, it was Akshay who had issued cheque, but had failed to honour it. Though the name of applicant No. 1 Mangal appears in the statements of witnesses, infact she is the mother of Akshay and not his wife. The statements refer to her as his wife. It is not clear whether the witnesses intended to refer to the applicant No. 1 or the wife of the main accused Akshay. Even in the statements of some of the witnesses, her name seems to have been scored off because of such mistake.

4. Whatever may be the reasons, even going by the statements of these witnesses, at the most, it can be said that the applicants were present when money was handed over to the main accused Akshay.

5. Though it was reported that the applicants were involved in some other crime of similar kind registered with Hadapsar Police Station, Pune and Shikrapur Police Station, District Pune, now it transpires from the report of the Investigating Officer that neither of the applicants are accused in the crime registered with Hadapsar Police Station and it is only the applicant Mangal who is accused in the crime registered with Shikrapur Police Station. However, even in that crime the learned Additional Sessions Judge has granted her anticipatory bail by observing that there were no material allegations to implicate her vide order passed in Criminal Misc. Application No. 1239/2013 dated 10th June 2013.

6. Again, the applicants have been granted ad-interim relief of anticipatory bail by the order dated 15th March 2021. There are no allegations about they having committed breach of the terms and conditions. Merely because they happen to be mother and brother of the main accused Akshay, one cannot

refuse anticipatory bail to them in the facts and circumstances discussed hereinabove.

7. The application is allowed. Ad-interim relief of anticipatory bail granted by the order dated 15th March 2021 stands confirmed with the same terms and conditions.

[MANGESH S. PATIL, J.]

ssc/