IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 341 OF 2021

Hitesh Vijay Gore .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 343 OF 2021

Neha Vijay Gore .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 345 OF 2021

Vishal Subhash Dhawan .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 348 OF 2021

Vijay Haribhau Gore .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Niranjan A. Mogre for all applicants in all ABA.

Mr. Sachin B. Chandan a/w Abhijit Tulsankar i/b Sushil Kavathekar for complainant in all ABA.

Mrs. J.S. Lohokare, , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.
DATE :5th FEBRUARY 2021

P.C. :

1. All these applications are decided by this common order because they arise out of the same offence, same C.R. number and same investigation. For the sake of convenience, applicants are hereinafter referred to by their names.

2. The applicants are seeking anticipatory bail in connection with C.R. No. 459 of 2020 registered at Lonavala City Police Station, District Pune, on 29/09/2020, under Sections 406, 420, 467, 468, 471, 504,506 read with 34 of the Indian Penal Code.

3. Heard Mr. Niranjan A. Mogre, learned Counsel for the applicants, Mr. Sachin B. Chandan, learned Counsel for the complainant/informant and Mrs. J.S. Lohokare, learned APP for the State.

4. The applicants are related inter-se. The applicant Hitesh and Neha Gore are brother and sister. The applicant Vijay is their father and applicant Vishal is applicant Neha's husband.

5. The FIR is lodged by one Balu Gaikwad. He has stated that he is in the business of dealing in land transactions. In 2018, his friend Ramesh Avate introduced him to Neha Gore. He had told the informant that Neha was having a business of trading. She was importing electronic goods and she had a Company known as "Riqueza Trade India Pvt. Ltd." Neha and Hitesh were Directors of that Company. After the informant met Neha, she frequently used to tell him that she herself had invested in transaction of luxury cars namely Fortuner and Lexus cars. She represented to the informant that she had invested Rs. 32,50,000/-. She told the informant that if the informant invested Rs. 28,50,000/-, in that business she could take him as 47% partner. In that dealing, they could purchase two fortuner cars, one Lexus

car at lesser price and they could sell those cars at higher price. She represented that they could share profits at in the proportion of 53% to herself and 42% for the informant. Based on her representation, the informant paid her Rs. 28,50,000/- through RTGS transfer. They entered into an MOU. Subsequently, Neha told the informant that she was facing difficulties in her business and that she needed some more amount. The informant transferred Rs. 6 lakhs more through RTGS, out of which, Rs. 2,50,000/- were taken by the applicant Vishal. Subsequently, Neha kept on asking for more money under different pretext. She used to tell the informant that if he had not paid additional amount, deal would not go through and it would fail. It is case of the informant that in all he had paid Rs. 66,50,000/-. On one occasion, when he had paid Rs. 32 lakhs in cash, the other applicants, namely Vijay, Hitesh and Vishal were present with Neha. After such demand, the informant waited for Neha to pay him profit or return his amount. On his continuous inquiry with Neha, she used to give some or other excuse. Finally, she simply refused to pay any money and even threatened the informant's wife. Applicant Vijay told the informant that informant should excuse Neha and they should settle the matter. On 6/12/2019, Neha gave him cheques for Rs.50 lakhs. On depositing, the cheques were dishonoured. The informant kept on asking for his money. He was threatened and abused. The money was not returned. Based on these allegations, this FIR is lodged.

6. Shri Mogare, learned Counsel for the applicants submitted that the informant has filed another FIR with CBD, Belapur Police Station vide C.R. No. 206 of 2020 on 8/12/2020 under section 506 of the Indian Penal Code and under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. He submitted that the informant is thus pressurising the applicants by filing different proceedings. He submitted that a legal notice was sent on behalf of the informant on 15/12/2019 by the informant's advocate calling upon Neha to repay

his money. There was a reference to the cheques issued by Neha which were dishonoured. Shri Mogare further submitted that this notice was sent on 15/12/2019 and the FIR is lodged on 29/09/2020 much belatedly. He submitted that, if at all, it is a civil dispute and no offence is committed by Neha. He submitted that the deal could not go through because the informant himself did not pay further amount required for completion of the deal and, therefore, the applicant Neha herself had suffered losses. The amount, which was given by the informant, was used for booking of the cars and those amounts were forfeited. It was not fault of the applicant Neha. He submitted that in the legal notice there is no reference to the cash amount having been given by the informant. He further submitted that, in any case, there are hardly any allegations against other applicants namely Hitesh, Vishal and Vijay.

7. Learned APP opposed this application. She relied on the allegations made in the FIR. She also

submitted the reports tendered by the investigating officer opposing grant of relief to the applicants. The reports are taken on record and marked as "X Collectively" for identification. She submitted that the FIR itself mentions that certain amount was taken by the applicant Vishal as well.

8. I have considered all these submissions. From the FIR, the conduct of the applicant Neha is clearly made out. On various occasions, on various false representations, huge amount was taken by Neha from the informant. Her conduct further shows that she gave him cheques amounting to Rs. 50 lakhs, but they were dishonoured. Thus, throughout the transactions her conduct shows that she never intended to honour her commitment. There is no justification for not repaying the amount given by the informant. Though it is her case that the amount was forfeited, the informant was not at fault and there is nothing to show that the informant was made aware of the possibility of forfeiture. Thus,

throughout the transactions, applicant Neha's intention appears to be dishonest. The amount obviously is misappropriated. Huge amount is lost by the informant. Therefore, at this stage, custodial interrogation of the applicant Neha is necessary. However, as far as other applicants are concerned, there are hardly any allegations against them. None of them had made any representations to the informant. The delay in this matter is not material because the informant was continuously trying to get his money back over a long period.

9. Against the applicants Hitesh and Vijay there are no allegations whatsoever. Against the applicant Vishal there is an allegation that on one occasion amount of Rs. 2,50,000/- was taken by him. However, in that behalf the applicant Vishal's role is minor compared to Neha. In that context, Vishal's custodial interrogation may not be necessary. He can be directed to attend the Police station and to co-operate with the investigation. In

view of this discussion, the following order is passed.

ORDER

(i) Criminal Anticipatory Bail Application No. 343 of 2020 preferred by the applicant Neha is rejected.

(ii) In the event of their arrest in connection with C.R. No. 459 of 2020 registered at Lonavala City Police Station, District Pune, the Applicants in ABA No. 341/2021, 345/2021 and 348/2021 are directed to be released on bail on their furnishing PR bonds in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each with one or two sureties each in the like amount.

(iii) All these three Applicants i.e. Hitesh Gore, Vishal Dhawan and Vijay Gore shall attend the concerned Police Station as and when called and shall co-operate with the investigation. In addition to this, the Applicant Vishal is directed to attend the concerned Police Station on 16th, 17th and 18th February 2021, between 01.00 p.m. to 05.00 p.m. If the applicant Vishal does not so attend, the investigating agency is at liberty to move an application for cancellation of the order passed in his favour.

(iv) The applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)