IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 624 OF 2021

Ravindra Sheshrao Gawande ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. N. R. Bubna with Mr. Girish Paryani i/b A & G Legal Associates LLP, Advocate for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 12th MARCH, 2021.

PC :

1. The applicant is apprehending arrest in CR No. I-252 of 2018 registered with Kolsewadi Police Station for the offences punishable under Sections 420, 406, 409 read with Section 34 of Indian Penal Code and Section 3 of Maharashtra Protection of Interest of Depositors Act, 1999 (for short "MPID Act").

2. The FIR was lodged by Smt. Deepali Shingare on 21st May 2018. It is alleged that the complainant was informed that accused Anita Gawande sales sarees at her residence. In June 2016, complainant met her. She purchased one saree from her. At that time, Anita and her husband Ravindra (applicant) told her that they are in

the business of forex exchange money currency. In the event of investment in the said business, she would earn more returns within a period of 3-4 months. She was also informed that the Indian currency is exchanged from the persons coming from abroad. As a result they earn good commission. The applicant told that he is working in railway and they have license for the said business. However, he never showed his license. After the applicant appraised the complainant about the money currency business, the complainant told the accused that she had recently purchased a house and she will not be in a position to invest the money. Accused Anita advised her to invest the amount by mortgaging gold as it would be easier for her to pay the installments of her house from the returns which she is going to earn. The complainant enquired whether the cheque can be given to them for investment. The accused insisted that the transaction could be done only in cash. On account of false assurances, the complainant mortgaged her gold ornament with Mannapuram Gold in June 2016 and invested amount of Rs. 6,00,000/- which was paid to the accused in cash. Thereafter, Anita told the complainant that after she invested amount of Rs. 2,00,000/- in cash in August 2016, she would earn Rs. 3,00,000/- in September 2016. Hence, the complainant parted Rs. 5,00,000/- after collecting from her relatives and handed over the amount to Anita in the presence of her husband (applicant) for investing in their business. The complainant was paid Rs. 30,000/- in cash to gain her confidence. Anita used to frequently tell the complainant to invest the amount by giving false assurance. The amount was parted by the complainant from time to time. The complainant demanded returns. She was assaulted by co-accused Anita on 24th October 2017. NC complaint was registered with the Kolsewadi Police Station. It is alleged that several other investors were also induced to invest amount. The complainant was cheated for the amount of Rs. 23,20,000/-. Various other investors were duped for an amount approx Rs. 1,03,70,000/-.

3. The applicant preferred the application for anticipatory bail before the Sessions Court. The said application was rejected by order dated 12th February 2021. While rejecting the said application it was observed that the FIR and statement of witnesses reveal that the applicant and his wife introduced the benefits of foreign money exchange scheme to investors and induced them to invest money in the said scheme by promising them good returns. The wife of the applicant had collected near about Rs. 3,13,27,000/- from the investors.

4. Learned advocate for the applicant submitted that the applicant has not played any role in the transactions. He has been falsely implicated. Custodial interrogation of the applicant is not necessary. Before the FIR dated 21st May 2018, the wife of the applicant lodged complaint with Kolsewadi Police Station on 7th June 2017, stating that one Vaibhavi @ Rakhi Achreker had represented applicant's wife that she is in business of foreign exchange money currency and on her representations the wife of the applicant invested the amount with Smt. Vaibhavi Achrekar. The applicant's wife did not benefit out of transactions. Vaibhavi is absconding from 17th April 2017. Police has not initiated any action against Vaibhavi. Applicant is framed in this case. The complaint merely shows his presence during transaction. No role or participation is assigned to the applicant. FIR does not mention that money was handed over to the applicant. He is not account holder or beneficiary in any of the bank transfers. He has been dragged to pressurize the co-accused. The FIR was lodged in 2018 and the custody of the applicant is sought after two years. On 24th October 2017, the applicant's wife was assaulted by complainant and others. The applicant and his wife approached Kolsewadi Police Station for lodging complaint and found that the complainant was sitting at the police station for lodging complaint. The applicant is government servant. He is

employed with railway as AGM. His arrest would jeopardize his employment. He is willing to co-operate with the investigation. The applicant filed affidavit disclosing that his bank accounts are freezed. The applicant need not be subjected to custodial interrogation.

5. Learned APP submitted that both the accused were involved in the offence. Overt act has been attributed to the applicant. He has been named in the FIR. The presence and participation of the applicant is disclosed in the FIR. The accused have misled the investigating agency. Huge amount was collected from the accused. The investigation reveals that no lady by name Vaibhavi is in existence. Hard earned money of investors is misappropriated by the accused. Investigation reveals active participation of the applicant.

6. I have perused the FIR and the investigation papers. The statement of the first informant clearly attributes role to the applicant. False representations were made by the applicant alongwith his wife. The statement recorded during investigation attributed active role to the applicant. I have perused the statement of Rohini Ghumare and the other witnesses. The statement recorded during the investigation refers to the representation made by the applicant and inducements to the investors to invest money. Several persons have referred to the active participation to the applicant. The

transactions were executed in the presence of the applicant. The applicant has also induced the investors to invest the amount. The some of witnesses have stated that amount was handed over to the applicant. Considering the evidence showing involvement of the applicant in the offence, no case is made out for grant of anticipatory bail. Hence, the following order:-

ORDER

1. ABA 624/2021 is rejected.

2. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)