IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1847 OF 2019

Asif Kasam Bagwan .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 1848 OF 2019

Anisa Asif Bagwan .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. Sameer S. Kadam for Applicants in both ABAs.
Ms. P. N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th FEBRUARY, 2021

P.C. :

1. Both these applications are disposed of by this common order because they arise out of the same offence and the same investigation. For the sake of convenience, both applicants are referred to by their names.

2. The Applicants are seeking anticipatory bail in connection with C.R.No. 213 of 2019 registered with Shahupuri

Police Station, Satara, on 13/06/2019, under sections 323, 406, 420, 504 and 506 r/w. 34 of the Indian Penal Code (for short 'IPC') and under sections 39 and 45 of The Maharashtra Money-Lending (Regulation) Act, 2014.

3. Heard Shri. Sameer Kadam, learned counsel for the applicants and Ms. Pallavi Dabholkar, learned APP for the State.

4. The First Information Report (for short 'F.I.R.) is lodged by one Nilesh Apte. He has stated that, one Shahrukh Bagwan was his friend. In September, 2016 Shaharukh told the informant that he himself along with applicant Anisa were conducting Bhishi. He induced the informant to invest in that Bhishi. He took the informant to meet the applicant Anisa. The informant and his friend Vishal Menkar contributed Rs.25,000/- each in that scheme. Shaharukh induced the informant to get one more member. Accordingly, the informant got another friend Santosh Mahadik to invest Rs.25,000/- in that scheme. Thus, it is alleged that, Rs.75,000/- were given to the applicant Anisa.

According to that scheme, lots were drawn and the informant and his friends got some number in that list. In the meantime, Shaharukh took the informant and his friends to the applicant Asif. Shaharukh told them that, the applicant Asif was accepting bets for horse races. On his inducement the informant and his friends paid Rs.2,11,000/- to the applicant Asif. Subsequently, applicant Asif told them that he was unable to give promissed returns and he suggested that the informant and others should invest in a private finance company. It is alleged that, the amount was transferred on one account held by one Asif Shaikh at the instance of Shaharukh. The F.I.R. mentions that the first informant and his friends, thus, invested around Rs.21,44,000/- at the instance of Shaharukh, but the amount was not returned. When they demanded that amount from Shaharukh, he abused and threatened them. On this basis, the F.I.R. was lodged.

5. Learned counsel for the applicants submitted that, from the entire allegations in the F.I.R. it is clear that there was no inducement made by either of the applicants. The allegations of

making inducement are specifically directed against Shaharukh. There are no specific allegation that the present applicants have misappropriated the amount. As far as the amount which is invested in Bhishi is concerned, even there are no allegations that applicant Anisa had misappropriated the said amount. As far as investing the amount of Rs.2,11,000/- is concerned, it was also invested at the instance of Shaharukh with the applicant Asif who was Shaharukh’s father in law. In any case, these two investments were not legal and the informant cannot make any grievance for loss of this amount.

6. Learned APP relied on the averments in the F.I.R. Learned APP, on instructions, stated that the applicants have co-operated with the investigation.

7. I have considered these submissions. This application is pending since the year 2019. The applicants are protected by an interim order dated 04/09/2019. As submitted by learned APP, the applicants have co-operated with the investigation. From the F.I.R.

it appears that the inducement was made by Shaharukh and at last stage he was not present, but had taken the informant and his friends to different people including the present applicants for investing the amount. At one occasion, the amount was transferred in the account of one Asif Shaikh. Even on that occasion, no amount was given to the present applicants. Applicant Anisa had accepted the informant and his friends in their Bhishi. In any case, this investment does not appear to be for any legal purpose. Even the allegations that the informant had given some amount to the applicant Asif Shaikh for placing bets on horse races also was not for legal purpose. In this view of the matter, informant had knowingly given this money. The inducement was not made by either of these applicants. As per F.I.R. it was made by Shaharukh. In this view of the matter, taking into account that the applicants have co-operated with the investigation and they are on interim protection for a long period, therefore, their further custodial interrogation is not necessary. They can be protected by final order of anticipatory bail.

8. Hence, the following order :

ORDER

(i) In the event of their arrest in connection with C.R.No. 213 of 2019 registered with Shahupuri Police Station, Satara, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

(ii) Both Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)