IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2925 OF 2021

Vinod Matadin Chauhan ..Applicant
Versus
The State of Maharashtra ..Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.2953 OF 2021

Manoj Matadin Chauhan ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Sunny A. Waskar, for the Applicant in ABA No.2925 of 2021.
Mr. Kamlesh Mishra a/w Ms. Smita Chauhan i/by Law Legal, for the Applicant in ABA No.2953 of 2021.
Ms. A. A. Takalkar, APP for the Respondent – State in ABA No.2925 of 2021.
Mr. A. R. Kapadnis, APP for the Respondent – State in ABA No.2953 of 2021.

CORAM : NITIN W. SAMBRE, J.

DATE : 10th DECEMBER, 2021

P.C.

1. Both the applicants, brothers are seeking pre-arrest bail in Crime No.861 of 2021 registered with Malad Police Station for the offence punishable under Sections 406, 420, 465, 467, 468, 471 r/w 34 of IPC.

2. The prosecution case against the applicants is, applicants

have accepted substantial amount in cash with an assurance of higher returns by investing the same in securities.

3. Both the counsels for the applicants would urge that the transactions alleged to have taken place in 2013-14 are claimed to be in cash. There is no evidence on record to infer that said amount was received by the applicants. Further contention is initially a complaint was lodged in 2019 about the aforesaid fraud, however, offence came to be registered in 2021 and as such, there is an unexplained delay as initially it could be inferred that the offence against the applicants was looked into and since involvement of the applicants was not noticed the offence was not registered. Further contention of the learned counsel for the applicants is that applicants have been falsely implicated in the offence in question.

4. Learned APP opposed the prayer on the ground that involvement of the applicants in the offence in question can be *prima-facie* inferred from evidence the record.

5. Amount was accepted by the applicants from the complainant that too in cash by taking undue advantage of illiteracy as is found from the investigation papers. Apart from above, applicants promised to open Demat account in the name of the complainant and deposited the amount in cash in their own account.

6. The amount deposited in cash accepted by the applicants was with a promise to return the same with higher returns after a period of five years. That being so, the offence could be discovered for the first time in 2019-21 and the written investigation is carried out.

7. There is enough material on record on the investigation papers to infer *prima-facie* involvement of the applicants in crime in question. There are other four similar complainants who have come with similar allegations against the applicants.

8. It appears that both the applicants who are real brothers acted in connivance and in support of each other in practicing the fraud against illiterate complainants. Applicants have issued bogus receipts of the amount which they have received and invested, as during investigation it was verified from the company for whom one of the applicants was working as sub-broker which found to be not issued by the said company. As such, aforesaid issuance of bogus receipt *prima-facie* depicts their involvement. The fact that the applicants are lawyers have co-operated with the investigation will be of hardly any assistance particularly when a large scale of financial fraud is noticed in the matter.

9. At this stage, counsel for the applicants submits that protection from the arrest may be granted so as to take chance before the Apex Court.

10. In view of the fact that there is strong material available against the applicants about their involvement in the offence in question, no case for grant of protection is made out.

11. As such, both the applications stand rejected.

[NITIN W. SAMBRE, J.]