

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2362 OF 2019

1. Bhairav Yogesh Bhawsar
2. Rajesh Chandrakant Shah ... Applicants

Versus

The State of Maharashtra ... Respondent

**ALONG WITH
ANTICIPATORY BAIL APPLICATION NO. 2430 OF 2019**

Nancy Veronica Chettiar ... Applicant

Versus

The State of Maharashtra & Anr. ... Respondents

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Mr. Ashok Mishra a/w Mr. Viral Bhanushali and Mr. Ravi Mathukia
i/b. Solicis Lex, Advocate for the Applicants.

Mr. A. R. Kapadnis, APP for the Respondent – State.

Mr. D. K. Gaud (P. I.) and Mr. Nitin Sawant (P.H.C.), Bangur Nagar
Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 23rd JUNE, 2021

PER COURT:

1. In both these applications, the applicants are apprehending arrest in C.R. No. 89 of 2018 registered with Bangur Nagar Police Station, Mumbai for offence under Section 420 r/w Section 34 of Indian Penal Code (for short “IPC”).

2. The applicant in Anticipatory Bail Application No. 2430 of 2019 had preferred an application for anticipatory bail before this Court which was rejected vide order dated 11th September, 2018.

3. The First Information Report (for short “FIR”) was lodged on 20th March, 2018. It was alleged that in the month of January – 2018, the complainant and her family members were planning to go for tour at Singapore and Malaysia. On 20th January, 2021 they visited office of Enbee Enterprises at Malad, Mumbai. They were introduced to Rajesh Shah, Bhairv Bhawsar and Nancy Chettiar. They were informed that for travelling to Singapore and Malaysia for 12 days and 11 nights. Amount of Rs.95,000/- would be charged per person. The amount was reduced to amount of Rs.85,000/-. The tour was to suppose to May – 2018. The complainant deposited amount of Rs.51,000/-. The receipt was not provided. Subsequently, it was provided. The complainant issued cheque of Rs.3,25,000/-. Subsequently it was noticed that the office of Enbee Enterprises was closed and the applicants had disappeared. FIR was registered.

4. Applicant Nancy Veronica Chettiar had preferred an application for anticipatory bail before the Sessions Court. The said application was rejected by order dated 9th August, 2018. Thereafter,

she had preferred an application for anticipatory bail before this Court which has been rejected by order dated 11th September, 2018. While rejecting the said application this Court had observed that the applicant and others had induced the complainant and other persons to part with the amount. They were cheated. The applicants in Anticipatory Bail Application No. 2362 of 2019 had preferred an application for anticipatory bail before the Sessions Court which has been rejected by order dated 16th October, 2019.

5. Learned advocate for the applicant submitted that M/s. Enbee Enterprises came under financial distress. However, thereafter they have settled the dispute with the complainant and other customers. They have executed Memorandum of Understanding dated 26th April, 2019. The amount is returned to them by way of cheques. The parties have executed writing no objection for withdrawal of complaint against accused and submitted it to the Police. The applicants had filed affidavit before the Sessions Court about compliance of terms and conditions. The custodial interrogation of the applicants is not necessary. The applicants have paid an amount of Rs. 10,00,000/- to the parties.

6. Learned APP submitted that the FIR has been registered in 2018. The contention of the applicant is that the applicants have

paid an amount of Rs. 10,00,000/-. There are several other aggrieved persons and the total amount misappropriated by the applicants is to the extent of Rs.89,66,122/-. Hence, no relief can be granted to the applicants. During the course of investigation, it was found that the other persons from whom the amount was accepted towards the tours were also cheated.

7. The FIR was registered on 20th March, 2018. The applications for anticipatory bail preferred by the applicants before the Sessions court were rejected on 9th August, 2018 and 16th October, 2019. The applicant Nancy Veronica Chettiar has preferred second application for anticipatory bail before this Court. This application is pending before this Court from October, 2019. The submissions about execution of Memorandum of Understanding was also advanced before the learned Sessions Judge by the applicants in Anticipatory Bail Application No. 2362 of 2019. The learned Sessions Judge however observed that although the parties have executed the compromise, looking to the gravity of the crime, custodial interrogation of the applicants is necessary. During investigation, statements of 5 other aggrieved persons were recorded and it is the prosecution case that the total amount misappropriated by the accused is to the tune of Rs.89,66,122/-. The respondents have added Sections 406 of IPC and Section 66(D) of Information

Technology Act. The statements of aggrieved persons were recorded. Assuming that applicants had settled with some persons, the statements of other witnesses indicate huge liability. Considering the factual aspects, no case for grant of anticipatory bail is made out. Hence, applications deserves to be rejected.

ORDER

Anticipatory Bail Application Nos. 2362 of 2019 and 2430 of 2019 are rejected and stand disposed of accordingly.

(PRAKASH D. NAIK, J.)