IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.148 OF 2022

Soni Krishendra Kumar Yadav ..Applicant

VERSUS

The State of Maharashtra ..Respondent

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Advocate for Applicant : Mr.R.S.Deshmukh, Senior Advocate i/b.
Mr.Harshal Prakash Randhir
APP for Respondent : Mr.V.M.Kagne

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 1st April, 2022

DATE OF PRONOUNCING ORDER : 4th May, 2022

ORDER :-

1. The applicant is apprehending her arrest in connection with Crime No.17 of 2021, registered with Jalgaon Cyber Police Station, District Jalgaon, for the offence punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code and under Section 66-D of the Information of Technology Act.

2. Heard Mr.R.S.Deshmukh, learned Senior Advocate instructed by Mr.Harshal Prakash Randhir, learned Advocate for the applicant and Mr.V.M.Kagne, learned APP for the respondent.

3. It has been vehemently submitted by the learned Senior Advocate for the applicant that applicant had not played any kind of role in the alleged crime. Husband of the applicant is co-accused. She got married to one Akshay Yadav, whose name has been added later on as accused No.6. Akshay Yadav is working as an agent of Star Health Insurance Company Ltd. and he has been allotted a Agent Code for doing business. It was allotted to him for the year 2017-2018 and it was changed in the year 2018-2019. Akshay Yadav has done good work in the Company and therefore, the Company had awarded him with a Certificate for Star Performer for the year 2018-2019. In addition to that, Akshay Yadav is also working as an Agent of Bajaj Allianz General Insurance Company Ltd. The said Company had also allotted him Agent Code. The Code came to be allotted after he has passed examination held by the Insurance Regulatory Authority of India. Star Health Insurance Company has paid commission to Akshay Yadav for time to time for business i.e. for the policies which have been issued under his Agent Code. The applicant got married to Akshay Yadav only last year and there

cannot be a collusion between her and husband at the time when the application was filed i.e. 29th January, 2022. She was pregnant of 12 weeks at the time of filing of application and therefore, on the basis of her said status of health also she is seeking protection. There are no criminal antecedents of the applicant, however, now the Police contend that the applicant had made phone calls to the informant and instigated him to deposit the amount with Star Health Insurance Company. No such phone calls were made by the applicant. In this case, accused No.1 – Amit Singh s/o. Devendra Prakash Singh @ Amit Sharma s/o. Mulchand Sharma, accused No.2 – Lakhami Chand s/o. Rajesh Kumar, accused No.3 – Dipesh Kumar s/o. Tarakeshwar Singh, accused No.5 – Amit Verma s/o. Ramsingh Verma @ Vikram s/o. Suresh, accused No.7 – Rajkumar s/o. Kalyan Singh @ Anurag Sharma and accused No.8 – Ravikumar s/o. Yashpal Singh @ Kamalakaran Reddy came to be arrested. Mobile handsets, Bank Passbooks, Cheque Books, ATM cards and other important apparatus and documents have been seized by the Investigating Officer. Now nothing is required to be seized from the applicant. Applicant was never the employee of Star Health Insurance Company and therefore, there is no question of custodial interrogation of the applicant. The applicant has also produced on record Bank Account Statements of her husband

and her Sonography report dated 14th January, 2022 showing that she is carrying pregnancy of 12 weeks. Under such circumstance, she be protected.

4. Learned APP for the respondent has strongly objected the application and submitted that he is also relying upon the affidavit filed by Liladhar Narayanrao Kanade (Police Inspector), who is having additional charge of Cyber Police Station, Jalgaon, however, it was in respect of the order passed by this Court on 23rd February, 2022 when papers did not reach to the Assistant Public Prosecutor's Office within time. After narrating the contents of the FIR, the learned APP stated that charge-sheet is also filed on 21st January, 2022, however, investigation is incomplete in view of the fact that some accused persons are still absconding. The husband of the present applicant is absconding and infact, it was his Agent Code, which is involved in the present matter. The FIR has been lodged by one Tikaram Shankar Bhole stating therein that in between November, 2017 to 25th October, 2021, he was contacted by persons namely Dipika Sharma, Anurag Sharma and Kamalakaran Reddy from the mobile numbers on the mobile of the informant. It was disclosed that they were talking for and on behalf of Star Health and Allied Insurance Company Ltd., and then by explaining that

he would get more returns, they forced him to take policies, however, those policies were false and the amount he had sent was in some separate account, which was not of the Company. He has been cheated for an amount of Rs.61,79,593/-. During the course of investigation, it has been revealed that accused persons have received various amounts from the informant online. As regards present applicant and her husband are concerned, by misrepresenting and by putting Agent Code of the husband of the present applicant, amount was received and forged documents of policy were sent to the house of the informant. When the information about Agent Code number, phone number and e-mail ID of the husband of the applicant was collected from the policy documents, it can be certainly said that the company would have given him the commission, however, that information having turned to be fake later on. Since what kind of conversation/communication was done by the husband of the applicant as well as on his e-mail ID is definitely required to be considered and at the stage, the Investigating Officer is sure that the present applicant had posed herself as Dipika Sharma and may called to the informant instigating him to take the policies. The investigation that has been done reveals that many phone calls were given to the informant from the house of the present applicant. The said house was taken on rent in the name of present applicant and document to that effect has been recovered by the investigating Officer. Under such circumstance, her custodial interrogation is necessary.

5. The prosecution story in nutshell has been gathered in the aforesaid paragraphs, however, it is noted from the contents of the FIR that the informant went on making payments allegedly towards premium of policies intermittently and did not even wait for the documents as it appears. Alertness in such transactions is definitely required. Informant had retired from Agricultural Department of the State Government of Maharashtra on 31st March, 1992 and thereafter, it is stated that when he received phone call from one Dipika Sharma in November 2017, entire procedure was explained to him and he got impressed. Now, Investigating Officer states that the said Dipika Sharma might be the present applicant, however, as per the applicant, she got married with Akshay Yadav in 2021 only. Copy of the Rent Agreement shows that the said Flat was taken on rent from 1st September, 2021 and duration was till 30th July, 2022. Investigating Officer, therefore, will have to investigate it independently as to whether it would have been possible for the applicant to make phone calls from that place in the month of November, 2017. From the chart that has been given in the FIR,

it is stated that as per the representations by said Dipika Sharma, the informant had invested till 9th January, 2020 and then, he says that when he asked Dipika Sharma to return his amount in July 2020 with interest, she started avoiding the answer. It was told that the Company would give him written communication. Thereafter, he received information on 17th September, 2020 that two installments were outstanding and that communication was signed by one Nikhil Ahuja, Head-Group of Fund Approval, however, thereafter, informant contacted Dipika Sharma but her phone was switched off. Thereafter, he says that after some time, he received phone call from Anurag Sharma and told that he is calling from Integrated Management System, Bhubaneshwar, Orissa. He told that he has made a complaint to I.G.M.S. against Dipika Sharma as the informant is not getting back his amount but he would see that the amount will be received by him. Further, he asked that certain amount will have to be given and certain documents will have to be processed. Informant further states that he had also received communication from Kamalakaran Reddy and he was asking to deposit the amount and it is stated that he went on depositing the amount till 8th September, 2021. Therefore, the role of these three persons appears to be at a different period and as regards Dipika Sharma, her role appears to be over on 9th January, 2020.

Under such circumstance, whether somewhere in July, 2020 or September, 2020 the informant felt that he was cheated or not is a question because he has not lodged the report immediately. The FIR has been lodged on 25th October, 2021.

6. The Police papers show that informant has given the documents which were with him and specially in the policy documents, Agent Code of Akshay Yadav, who is the husband of the applicant, has been given. Now, the applicant says that in respect of the said policy, her husband has not received any commission amount. She has produced on record the Bank Account Statements of her husband. This Court cannot take up the role of the Investigating Officer and appreciate the said submission. It is for the Investigating Officer to consider such piece of documents, however, at present, except the allegation that those phone calls might have been made by the present applicant under the name of Dipika Sharma, there appears to be no other role as against her. She has produced on record the Sonography report stating that in the month of January, 2022, she was 12 weeks pregnant and the Sonography report also states that the expected delivery is in the month of July, 2022. Under such circumstance, in view of this medical situation of the applicant, she deserves to be protected, however, at the same

time, the investigation should not hamper and therefore, arrangement will have to be made. Applicant resides at New Delhi and therefore, the Investigating Officer can go to her residence and interrogate her. With these observations, following order is passed :-

ORDER

i) Anticipatory Bail Application is hereby allowed.

ii) In the event of arrest of the applicant – Soni Krishendra Kumar Yadav, in connection with Crime No.17 of 2021, registered with Jalgaon Cyber Police Station, Dist.Jalgaon, for the offence punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code and under Section 66-D of the Information Technology Act, she be released on P.R.Bond of Rs.50,000/- (Rs. Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rs. Twenty-five Thousand only) each.

iii) The applicant shall not try to contact the informant or other witnesses by any mode of communication.

iv) The Investigating Officer would be at liberty to go to the place of residence of the applicant or wherever she is presently residing and during the day time, the Investigating Officer may interrogate with the applicant.

v) The applicant to share her mobile number as well as location with the Investigating Officer within a period of one week from today and she should continue to share the location on every Saturday till filing of the charge-sheet.

vi) Only in exceptional circumstance that too with due certificate of the Doctor under whom the applicant is taking treatment, she can seek exemption from interrogation by having the communication with the Investigating Officer, however, endeavour should be made by her not to avoid and hamper the investigation.

vii) The applicant shall not tamper with the evidence of prosecution in any manner.

(**SMT. VIBHA KANKANWADI**)
JUDGE

SPT