

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 ANTICIPATORY BAIL APPLICATION NO.157 OF 2022

1. Nusrat Ilahi Khan S/o. Fazal Ilahi Khan
2. Ishrat Ilahi Khan S/o. Fazal Ilahi Khan .. Applicants

Versus

The State of Maharashtra .. Respondent

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Advocate for Applicants : Mr. Shaikh Tarek Mobin H.
APP for Respondent / State : Mr. S.W. Mundhe

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CORAM : MANGESH S. PATIL, J.

DATE : 24-03-2022

PER COURT :

. This is a successive application for anticipatory bail in Crime No.34 of 2021 registered with Jinsi Police Station, Aurangabad for the offences punishable under Sections 406, 420, 120-B r.w. 34 of the Indian Penal Code and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999.

2. The earlier application for anticipatory bail, which was preferred by the applicants along with the other accused who happen to be a son and daughter-in-law of one of them and one more

accused, was rejected by this Court on 19-04-2021.

3. The learned advocate for the applicants by referring to the decisions in the matters of **Sushila Aggarwal and Others Vs. State (NCT of Delhi) and another, (2020) 5 SCC 1** and **Siddharth Vs. State of Uttar Pradesh and Another, (2022) 1 SCC 676** submits that since rejection of the earlier application for bail the investigation has been completed and even the charge-sheet has been filed. No specific role is attributable to the applicants. They are senior citizens. One of them is suffering from paralysis. One is a retired government servant. They have not played any role in the crime. They are being implicated only with an intention that somehow the informant and the other investors could recover monies. The learned advocate would further submit that going by the principles laid down in the case of **Sushila Aggarwal** (supra), it is quite explicit that the informant and the other investors are falsely implicating the applicants, so that somehow they could prevail over the other accused and the informant and the investors could get back their money. There are no criminal antecedents. They are ready to co-operate the Investigating Officer. In fact the Investigating Officer has already recorded a statement of one of them. He also files an affidavit to that effect, which is placed on record.

4. The learned APP strongly opposes the application. He would submit that as it being a successive application for anticipatory bail, as laid down in the matter of **G.R. Ananda Babu Vs. State of Tamil Nadu, 2021 (1) Crimes 135 (SC)** there is a limited scope to consider the request. Besides, it is a matter under M.P.I.D. Act. Though the applicants are feigning ignorance, the other accused are related to them. Except Abdul Kadar, the rest of the accused are still absconding. There is every room to believe that their arrest would be made more difficult if the applicants are granted protection in the form of anticipatory bail. It is necessary to get an opportunity to the investigating officer to undertake their custodial interrogation.

5. As laid down in the case of **G.R. Ananda Babu** (supra), this being a successive application for anticipatory bail, obviously the scope is limited. There has to be some material change in the circumstances since rejection of the earlier application for bail. Except filing of the charge-sheet there is no other change which is brought to the notice of this Court. Rather, the main accused who are related to the applicants are still absconding. One of them is a woman and still could keep herself out of the clutches of law. There is every room to believe that since she is a daughter in law of one of

the applicants, in all probability he must be knowing her whereabouts. Though the other accused is stated to be missing since before registration of the crime and the missing report is lodged, this was a ground which was available even when for the first time a request was made for anticipatory bail.

6. Following the principles laid down in the case of **Nimmagadda Prasad Vs. Central Bureau of Investigation; (2013) 7 SCC 466**, this being an economic offence which stands on a different footing, the applicants whose application for anticipatory bail has been rejected long back, except filing of the charge-sheet there being no other material change in the circumstance, when few other accused are still absconding who are related to the applicants, the applicants are not entitled to renew their request.

7. The Application is rejected.

(MANGESH S. PATIL)
JUDGE

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