Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1949 OF 2021

Lata Hemant Bhope ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Kuldeep S. Patil, a/w Sachin K. Hande, Abhay Jadhawar, for the Applicant.
Mr. A. A. Palkar, APP for the State.
Mr. Sachin Dhakephalkar, for the Intervenor.

CORAM: N. J. JAMADAR, J.
DATED : 17th JUNE, 2022

ORDER:-

1. This is an application for anticipatory bail in connection with CR No.36 of 2020, registered with Alankar Police Station, Pune, for the offences punishable under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

2. Suman Mangesh Avhad (the first informant) lodged a report on 12th March, 2020 with the allegations that she and her husband Mangesh became acquainted with the applicant Lata Bhope and her husband Hemant Bhope in a Sidhh Samadhi Yoga Session, in the year 2014. Hemant gave information to the first informant and her husband about Invest Sahi Money

Trading and Consultant Pvt. Ltd. Hemant gained confidence of the first informant and her husband, and made them to pursue a course in 'Money Workshop and Trading'. In a power-point presentation, it was represented to the first informant and her husband that on the investment, which they make in the said company, they would get interest at the rate of 2.2% per month or 30% per annum. Based on such representation, the first informant claimed to have invested a sum of Rs.25,00,000/- under the scheme of monthly interest at the rate of 2.2% and sum of Rs.30,00,000/- under the scheme of return thereon at the rate of 30% per annum. The accused allegedly paid interest, as agreed, till 15th February, 2018. Thereafter, the payment of return on investment stopped. Notices were issued calling upon the applicant and her husband to repay the said amount along with the agreed interest. On 5th April, 2018, the first informant learnt that the husband of the applicant Mr. Hemand Bhope was taken in custody in a "Bitcoin" fraud case.

3. The first informant and her husband claimed to have approached the applicant. The latter gave assurances on multiple occasions to repay the amount but reneged therefrom. Later on the applicant and her husband claimed that they had entrusted the said amount to one Mrs. Kalyani Lonkar (Thakur) for trading and they should realize the amount from the said Mrs. Kalyani Lonkar (Thakur). The first informant thus lodged report.

4. Initially, this Court did not grant any interim protection. However, on 8th October, 2021, an assurance was made before the Court that the applicant would not be arrested till 22nd October, 2021. The same position has continued till date.

5. The learned Counsel for the applicant submitted that there is no material to show *prima facie* complicity of the applicant in the crime. It is not the case of the first informant that the applicant was the person who induced her to part with money. The allegations are primarily against Hemant Bhope, the husband of the applicant. In the absence of any other material, the applicant cannot be roped in for the mere reason that she is the wife of Mr. Hemant Bhope, who allegedly duped the first informant and her husband.

6. As against this, the learned APP and the learned Counsel for the intervenor – first informant submitted that there is *prima facie* material to show the complicity of the applicant. The applicant was a partner in the firm, in which the first informant, her husband and other similarly circumstanced victims were made to invest the amount. Attention of the Court was invited to the Supplementary Agreement to the LLP Deed of Abundant Financial Services LLP., which shows that the applicant was the partner of the original LLP with 50% share in the profits. The learned Counsel for the intervenor – first informant also invited the attention of the Court to a notice which the applicant had addressed to Mrs. Kalyani Lonkar (Thakur) wherein it was alleged that the understanding between the parties was that the money to be raised by Mrs. Kalyani Lonkar (Thakur), would be raised by receiving the deposits in the name of the first informant and her husband.

7. I have carefully perused the allegations in the first information report and the material on record. From the perusal of the allegations in the FIR, it becomes abundantly clear that the role of inducing the first informant and her husband to make investment, is primarily against Mr. Hemant Bhope, the husband of the applicant. It was, allegedly, Mr. Hemant Bhope, who made the first informant and her husband to believe that the amount they invested would fetch substantial return. The applicant, it seems, came in the frame only after co-accused Hemant was allegedly arrested in connection with Bitcoin fraud case. The applicant initially promised to refund the amount of the first informant and her husband and, later on, resiled therefrom. The applicant also falsely claimed that the amount was entrusted to Mrs. Kalyani Lonkar (Thakur) for trading.

8. From the perusal of the allegations in the FIR, it becomes abundantly clear that the role of making representation and soliciting the investment is against the co-accused Hemant Bhope. The first informant alleged that after the amount was invested, the return of investment was duly made till 18th February, 2018. Till this point of time, it does not appear that the applicant was directly involved in the transactions. The first informant claimed to have approached the applicant after the co-accused Hemant was arrested. The failure on the part of the applicant to honour the commitments, which she allegedly made, while her husband was in custody, in the Bitcoin case, does not *ipso facto* lead to an inference of the complicity of the applicant for the offences punishable under Sections 406 and 420 of the Penal Code. In the circumstances, the element of entrustment of the money with the applicant itself appears to be contestible.

9. Moreover, the applicant seems to have roots in society. The possibility of fleeing away from justice also seems remote.

10. In the aforesaid backdrop, in my view a *prima facie* case for grant of anticipatory bail is made out.

11. Hence, the following order:

: O R D E R :

(i) The application stands allowed.

(ii) In the event of arrest of the applicant in CR No.36 of 2020, registered with Alankar Police Station, Pune, she be released on bail on executing a PR Bond in the sum of Rs.25,000/- and one or two sureties in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(iv) The applicant shall cooperate with the investigation and report to the Investigating Officer as and when directed.

[N. J. JAMADAR, J.]