IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1848 OF 2021

1. Melukulam Damodaran Sreenivasan
2. Varun Sreenivasan … Applicants

Vs.

State of Maharashtra and another … Respondents

WITH

INTERIM APPLICATION NO.3053 OF 2022

Satish Mohonlal Oswal and others … Applicants (Intervenors)

Vs.

State of Maharashtra and another … Respondents

IN

ANTICIPATORY BAIL APPLICATION NO.1848 OF 2021

ALONG WITH

ANTICIPATORY BAIL APPLICATION NO.1976 OF 2021

Seema Melukulam Sreenivasan … Applicant

Vs.

State of Maharashtra … Respondent

WITH

INTERIM APPLICATION NO.3054 OF 2022

Jyoti Pankaj Agarwal and others … Applicants (Intervenors)

Vs.

State of Maharashtra … Respondent

IN

ANTICIPATORY BAIL APPLICATION NO.1976 OF 2021

Mr. Shrinivas Bobde a/w. Mr. Sushrut Desai, Mr. Nashir Vania, Mr. Steven Anthony and Mr. Waqar Pathan i/b. Mr. Wesley Menezes for Applicants in both the Anticipatory Bail Applications.

Mr. Suyash Khose for Intervenors.

Ms. Geeta P. Mulekar, APP for Respondent-State.

CORAM : NITIN W. SAMBRE, J.
DATE : SEPTEMBER 19, 2022

P.C. :

Heard.

2. Counsel for the applicants, on instructions, submits that in compliance of the order dated 10.08.2022, the applicants shall be depositing Demand Draft for an amount of Rs.5 crores with the Registrar, High Court (A.S.).

3. Permission granted. Let the aforesaid Demand Draft be deposited within one week from today.

4. The case of the prosecution against the applicants is that the applicants, who are the licence / permission holders under the Chit Funds Act 1982 (hereinafter referred to as the 'said Act' for the sake of brevity), have committed fraudulent acts in the management of the chit business defrauding people to the tune of Rs.38 crores.

5. Counsel for the applicants, Mr. Bobde would urge that, the applicants have already paid an amount of Rs.47 lakhs on 21.03.2022 to the complainant. He would further urge that since the office of the applicant was sealed, they were unavailable to provide complete information to the investigating agency as was demanded.

5.1. He would also urge that the issue involved in the present application can be redressed under the provisions of the said Act, particularly under Chapter XII thereof. So as to substantiate his contention, he has invited my attention to the provisions of Sections 64, 65 and 66 of the said Act. He would urge that in case the Registrar arbitrates a dispute preferred by the claimants and notices that there is liability against the applicants which they have failed to discharge, of course, the criminal proceedings can be initiated. But according to him, as on date, applicants have sufficient estate to discharge the liability in addition to the lawful receivables from the persons who were holding chits.

5.2. He would further urge that because of the investigation, applicants' recovery proceedings are hampered.

6. Learned APP along with the counsel for the complainant would press for rejection of the bail on the ground that even if the aggrieved party can take recourse to the proceedings under Chapter XII of the Act, the applicants cannot claim exclusion of the criminal liability. According to APP, while conducting themselves as holders of licence issued under the Act, the applicants have accepted the deposit, which is not permissible and such deposits are subsequently used in the management of the chit business. As such, she would urge that there is sufficient evidence of *prima facie* involvement of the applicants in the offence in question.

6.1. She would further urge that the nature of offence committed is economic and this Court is required to be sensitive to the modus of the applicants and that being so, applications for grant of pre-arrest bail be rejected.

7. I have appreciated the said submissions.

8. The fact remains that the applicants, during the course of hearing, have produced Demand Draft for an amount of Rs.5 crores, which is already permitted to be deposited with the registry of this Court. The fact that the complainant was paid an amount of Rs.47 lakhs is also not disputed. This takes me to the legal submissions made by Mr. Bobde based on the provisions of Chapter XII of the said Act. Section 64 of the said Act provides for disputes relating to chit business and Section 65 provides for period of limitation within which such dispute can be raised. Section 66 of the Act provides for a settlement of disputes.

9. Admittedly, neither the complainant nor the other persons who have approached the investigating agency have taken recourse to the provisions of the said Act by raising dispute before the Registrar as regards the chit business. Once such dispute is settled under Section 66 of the said Act by the Registrar and the settlement is not honoured by the applicants, only then they can be made liable for the criminal action.

10. In the facts of the present case what can be noticed is, the applicants have already deposited an amount of Rs.5 crores in addition to Rs.47 lakhs paid to the complainant. In this background, it can be inferred that the applicants have shown their *bonafides*.

11. In the aforesaid background, having regard to the provisions of Chapter XII of the said Act, in my opinion, a case for grant of protection is made out. However, it is clarified that in case after the settlement of dispute is answered and the applicants have failed to honour the directions issued in the settlement of the dispute by the Registrar, it shall be open for the prosecution so also for the complainant to move before the Sessions Court seeking cancellation of bail. However, till such time, in my opinion, the applicants need to be protected.

12. That being so, the ad-interim protection ordered by this Court stands confirmed.

13. In the event of arrest of the applicants in Crime No.172 of 2021 registered with Khadki Police Station, District - Pune City for the offence punishable under Sections 406, 420 read with Section 34 of the Indian Penal Code, 1860, they be released on bail on executing P.R. Bond in the sum of Rs.1,00,000/- each with one or two sureties in the like amount. Applicants shall attend the Investigating Officer from 10th October to 21st October, 2022 between 10:00 a.m. and 12 noon and thereafter as and when directed by the Investigating Officer. The said applicants shall not directly or indirectly try to influence the prosecution witnesses and tamper with the evidence.

14. Applications are disposed of accordingly.

15. In view of the disposal of the anticipatory bail applications, nothing survives in pending interim applications. Interim Applications stand disposed of as such.

(NITIN W. SAMBRE, J.)