IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

930 ANTICIPATORY BAIL APPLICATION NO. 1285 OF 2023

1. Jagdish Dipchand Khattar

2. Dipti w/o Jagdish Khattar

....Applicants

VERSUS

The State of Maharashtra & another

.....Respondents

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Mr. V. D. Sapkal, Senior Counsel instructed by Mr. Sandip Sapkal, Advocate for the applicants.
Mr. S. B. Jadhav, APP for the State.
Mr. R. S. Deshmukh, Senior Counsel instructed by Ms. Y. A. Namde, Advocate for the informant.
Mr. R. N. Dhorde, Senior Counsel instructed by Mr. V. R. Dhorde, Advocate for intervenor.

CORAM : R. M. JOSHI, J.
DATE : 19th DECEMBER, 2023.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 0546/2023 registered with Sadar Bazar Police Station, Tq. & Dist. Jalna, for the offences punishable under Sections 120B, 406, 420, 465, 467, 468, 471, 506 read with Section 34 of Indian Penal Code and Sections 3, 4 and 5 of Maharashtra Protection of Interests of Depositors (in Financial Institutions) Act.

2. Avinash Chavan, first informant reported to the police by stating that one of his acquaintance introduced him to Jagdish Khattar (applicant No. 1) who is in the liquor business. Informant claims to have met applicant No. 1, who told him about his son Amit and daughter-in-law Kashish having licence of liquor shop and they intend to sale it. He assured him for huge returns in the said business. It is claimed that a meeting was held in the office of Krushna Associates and Developers, Chhatrapati Sambhajinagar. It was told to him that such liquor licences are available. Jagdish demanded 5% commission and when informant called it to be excessive, he assured him to take commission @ 1% only. For the purpose of liquor shop licence, amount of Rs. 25,00,000/- was received by Jagdish and within 15 days the said amount was returned on the pretext that the owner has refused to execute the transaction. It is alleged by informant that by this was done in order to earn confidence of informant. It is stated that thereafter number of transactions took place between the parties for the purpose of transfer of liquor licence and in all few crores were shell out by the informant to applicant No. 1, his son and daughter-in-law. Details are given in respect of those transactions wherein it is claimed that applicant No. 1 has personally received the amount in cash from the

informant. Since transfer of licence was not effected, informant found himself to be duped by applicants and co-accused. Hence, this report.

3. Learned Senior Counsel for applicants amongst other contentions has mainly relied upon the fact of issuance of public notice by applicant No. 1 on 3rd August, 2015 giving declaration that he has severed all ties with his son Amit. It is claimed that once the applicants have disowned their son, they are not responsible for the acts of their son. It is also submitted that there is not a single transaction entered into between informant, victim and applicant No. 1. As far as applicant No. 2 is concerned, it is submitted that she has no concern with the transaction at all. When it is argued on behalf of the informant and victim that applicant No. 1 had issued cheque for Rs. 52,00,000/- against transaction of the informant, it is submitted by learned Senior Counsel for applicants that applicant No. 2 had lodged complaint on 23rd April, 2023 claiming that her son was abducted and assaulted and hence she was forced to give the cheque from account of applicant No. 1 by making his signature thereon. Thus, it is contention of learned Senior Counsel for the applicants that merely because the cheque is issued in the

compelling circumstances, it cannot be presumed that applicants are party to the transactions in question.

4. Learned APP and learned Senior Counsel for informant and victim opposed the application on the ground that publication of notice is camouflage as it can be seen from the record that applicant No. 1 had issued cheque in favour of informant for amount of Rs. 52,00,000/- and that story sought to be made out by applicant No. 2 is not acceptable. It is contended that there is no report lodged in respect of the incident in which the son of the applicants was threatened and beaten for the purpose of securing custody of the cheque in question. It is further submitted that there is ample evidence on record in order to show that infact applicants were working in collusion with co-accused Amit. In order to substantiate said submission, reliance is sought to be placed on documents indicating receipt of notice by applicant No. 1 issued against co-accused Amit. It is also submitted that the contention of applicants that their son is staying separately is falsified on the basis of statement made by Amit before the competent revenue authority indicating his place of residence to be the same as of present applicants. It is submitted that agreement entered into between Amit

and informant refers to the cheque which was issued by applicant No. 1 and hence according to them, there is no substance in the contention of learned Senior Counsel for the applicants that the cheque was obtained under force and coercion. Learned APP submits that there is statement of Deepali Borse recorded under Section 161 of Code of Criminal Procedure indicating presence of applicant No. 1 at the time of transaction in question. He also relied upon statements of investors in the plots of Krushna Associates and Developers. These witnesses also claim to have handed over money to applicant No. 1 and transaction being entered into with applicant No. 1 and co-accused Amit.

5. If statements of informant and victim are accepted to be true then prima facie there is specific case made out against applicant No. 1 of he being in collusion with co-accused Amit have duped them for huge amount. In order to oppose this, main contention of the applicants is that in the year 2015 itself by issuing public notice they had disowned their son Amit. Moreover, this, according to them, is more than sufficient to show that they are not in collusion with Amit. This stand of the applicants is prima facie falsified with material evidence placed on record which indicates that

the affidavit filed by Amit before the competent authority indicates his place of residence along with applicants much after the alleged declaration made by them. Apart from this, there is agreement between Amit and informant/victim in respect of cheque issued by applicant No. 1 towards repayment of amount of Rs. 52,00,000/-. It mentions cheque number, amount etc. In this backdrop, contention of applicant No. 2 that the said cheque was issued by her by making signature of applicant No. 1 and it was handed over under pressure is not acceptable for two reasons. Firstly, there is no complaint with police in respect of the alleged incident occurred with Amit indicating he being abducted and assaulted etc. Secondly, the handwriting appearing from the signature of applicant No. 2 on complaint dated 23rd April, 2023, makes it improbable that she could even copy/forge signature of applicant No. 1. Most pertinently, the cheque is not dishonoured for difference in signature but it was dishonoured as payment was stopped. Thus, this Court finds no substance at this stage in the contention of learned Senior Counsel for applicants that the cheque in question was signed under the circumstances as mentioned in complaint dated 23rd April, 2023. Apart from this, there are statements of witnesses indicating that the plotting scheme was introduced by applicant No. 1 and co-accused Amit and investments were called from investors. Their statements show that money was handed over to applicant No. 1 in the said transaction. This also shows that applicant No. 1 along with co-accused Amit was doing business irrespective of the fact of publication of notice in the year 2015. This evidence coupled with receipt of notice by applicant No. 1 on behalf of co-accused Amit, more than sufficiently indicates the collusion on part of all accused in commission of crime.

6. All the aforestated documentary evidence on record clearly shows that there is substance in the contention of prosecution as well as informant and victim that the declaration given in the year 2015 is nothing but a camouflage and that by taking shelter of the said declaration the victim and others were duped by applicant No. 1 and co-accused Amit. Thus, when prima facie involvement of applicant No. 1 is seen in the crime involving huge amount, it is not in the interest of justice to grant him anticipatory bail. Granting such relief would preclude the Investigating Agency from carrying out effective investigation into the crime to unearth the same. As far as applicant No. 2 is concerned, her participation in the crime or atleast aiding or abetting thereto is absolutely clear from the material placed on record. Having regard to the nature of offence and her role

therein, she is also not entitled to any relief. Hence, application is rejected.

7. Learned counsel for applicants seeks extension of interim protection granted to the applicants for approaching the Hon'ble Apex Court.

8. Learned APP and learned Senior Counsel for informant opposed the said request.

9. Since the applicants were protected by interim order, said order is extended for two weeks from today in order to enable the applicants to approach the Hon'ble Apex Court.

(R. M. JOSHI)
Judge

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