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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.237 OF 2023

Mrs. Zeenat Zakir Saiyed ..Applicant
VS.
The State of Maharashtra ..Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.288 OF 2023**

1. Mr.Aijaz Abubakar Sayyed
2. Mr. Imtiyaz Abubakar Sayyed ..Applicants
VS.
The State of Maharashtra ..Respondent

Mr. Shadab B. Khopekar, for the Applicant.
Ms. A. A. Takalkar, APP for the State.
API-Mr. Swapnil Kadam, Virar Police Station present.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 10, 2023

P.C. :

1. Heard learned counsel for the applicants and learned APP.
2. These are the applications for pre-arrest bail. The applicants are apprehending arrest in connection with C.R.No.1059 of 2022 dated 18/11/2022 registered with Virar Police Station for offence punishable under sections

420, 34 of the Indian Penal Code, 1860.

3. Learned APP submitted that the notice under section 41A of the Code of Criminal Procedure ("CrPC", for short) was issued which was duly received by the applicants. Learned counsel for the applicants on instructions submitted that no such notice under section 41A of CrPC was ever issued. I have seen the notice issued under section 41A of the CrPC issued to the applicants dated 27/12/2022 which according to learned APP bears the signature of the applicants

4. Be that as it may, by order dated 31/01/2023, the applicants were directed to attend the investigating officer on 2nd , 3rd and 4th February 2023 between 11.00 a.m. and 1.00 p.m. and co-operate with the investigation. Learned APP submitted that except for stating that the entire amount which belongs to the complainant has been handed over by the applicants to Mehmood Mehboob Ali Shaikh who according to the applicants was the one who interacted with the complainant, the applicants have not co-operated with the investigation. I find that there is sufficient compliance

of notice issued under section 41A of CrPC.

5. It is the stand of learned counsel for the applicants that the entire transaction was orchestrated by Mehmood Mehboob Ali Shaikh. Even the amounts which have been allegedly invested by the complainant which allegedly came to the share of the applicants have been handed over to Mehmood Mehboob Ali Shaikh who has since been absconding.

6. I have gone through the accusations in the FIR. In the FIR specific allegation is made that the amounts which were invested by the complainant and other victims amounting to Rs. 23,89,000/- were deposited in the personal account of the applicants. The investigation papers reveal that the amount of Rs. 4,50,000/- is deposited in the personal account of the applicant -Aijaz. An amount of Rs. Rs.13,89,000/- was deposited in the account of the applicant- Imtiyaz and amount of Rs. 5,50,000/- was deposited in the account of the applicant-Zeenat. The applicants are thus the beneficiaries of the amounts which have been invested. It is the contention of the learned

counsel for the applicants that the applicants themselves are the victims as the said Mehmood Mehboob Ali Shaikh has absconded and the amounts which had come into the bank account of the applicants have been paid over to the said Mehmood Mehboob Ali Shaikh who was to look after the investment scheme. In the submission of learned counsel, the applicants were not at all concerned with the investment scheme which was floated by Mehmood Mehboob Ali Shaikh. Reading of the FIR reveals that there are specific accusations that the amounts to be invested have been deposited in the bank account of the present applicants. In my opinion, this is not a fit case for grant of anticipatory bail considering the nature of the accusations. Even, while the investment scheme was explained to the complainant, the applicants were present. The applicant-Aijaz has entered into MOU thereby accepting the liability to return the amounts to the complainant. In this view of the matter, the application is rejected.

(M. S. KARNIK, J.)