IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 462 OF 2023

1. Nazneen Amil Khan
2. Amil Moinul Khan …. Applicants

v/s.

The State of Maharashtra …. Respondent

Mr. Aniruddha Chandekar for the Applicants.
Mr. R.M. Pethe, APP for the State.
Mr. Durgesh Jaiswal for the Complainant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th MARCH, 2023.

P. C. :-

. This is an Application under section 438 of Cr.P.C. filed by the aforesaid Applicants seeking pre-arrest bail in C.R.No.829/2022 registered with R.A. Kidwai Marg Police Station, Mumbai for offences punishable under sections 408, 420 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicants, learned APP for the State and learned counsel for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by

Fakhruddin Mohammad Usman. A perusal of the said FIR reveals that the co-accused – Anas Moinul Islam Khan who is the brother of Applicant No.2 and brother-in-law of Applicant No.1 was working with the Complainant on salary of Rs.4,000/- per week. The Complainant realized that some of the customers from Hyderabad had not paid money for about six months. The co-accused – Anas Moinul Islam Khan had told him that the stock from Hyderabad was not sold and that the customers would pay money after navratri. He has stated that till October, 2022, he did not receive money from the customers of Hyderabad. He planned to take Anas to Hyderabad along with him. However, the co-accused – Anas told him that he is unable to come because of his marriage. He claims that subsequently the co-accused failed to report to work on some pretext or the other. The Complainant suspected that the co-accused was involved in misappropriating the money. On 22/10/2022, the Complainant managed to get the phone number of Applicant No.2 and called him and the Applicant No.1 and told them to meet him. They told him that Anas had gone to Uttar Pradesh. The Complainant got in touch with one of the customers and informed that he owed him Rs.24,78,680/-. The customer informed the Complainant that he has paid the entire money to the co-accused – Anas Moinul Islam Khan. Subsequently, the Complainant learnt that said Anas had received the money from the customers. The Complainant also learnt that said Anas along with co-accused had misappropriated an amount of Rs.34,67,285/-.

4. The records reveal that out of the said misappropriated amount, the sum of Rs.3,00,000/- was transferred in the name of Applicant No.1 whereas an amount of Rs.22,00,000/- was transferred into the account of the Applicant No.2. The statements of the witnesses also prima facie indicate that the Applicant No.1 had falsely represented to the customers that she is the wife of the co-accused. The contention of the learned counsel for the Applicants that they were not aware about the deposit of the money by Anas and that the co-accused had used their ATM card for withdrawal of the money, cannot be accepted at this stage.

5. The amount misappropriated is not yet recovered. Considering the nature of the offence, the presence of the Applicants is required for custodial interrogation. Under the circumstances, the Application is dismissed.

PREETI H JAYANI Digitally signed by PREETI H JAYANI Date: 2023.03.15 13:59:52 +0530

(SMT. ANUJA PRABHUDESSAI, J.)