AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.111 OF 2022

Jignesh D. Sanghavi … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.1601 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.111 OF 2022

Vishal Jagdish Agarwal … Applicant
In the matter between
Jignesh D. Sanghavi … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.1051 OF 2023

Dharmesh Bharat Desai … Applicant
V/s.
The State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.1374 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.1051 OF 2023

Vishal Jagdish Agarwal … Applicant
In the matter between
Dharmesh Bharat Desai … Applicant
V/s.
The State of Maharashtra … Respondent

Mr. Shripad P. Hushing for the applicants in both ABAs.

Mr. Ganesh Bhujbal with Mr. Jayant Bardeskar for the applicant in both IAs.

Mr. Pandurang H. Gaikwad, APP for the respondent/ State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 15, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.483 of 2021 registered with Yerawada Police Station for offence punishable under Section 406, 420, 464, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860 and Section 21 and 23 of the Banning of the Unregulated Deposits Act, 2019, the applicants have filed present anticipatory bail applications seeking relief under Section 438 of the Criminal Procedure Code, 1973.

2. According to prosecution, in March 2020, Dharmesh Bharat Desai and Jignesh D. Sanghavi (hereafter “accused persons” for short) made a call to the informant stating that his friend, Vijay Agarwal is an insurance agent and he should invest amounts in the insurance policy. Thereafter, the accused persons called upon the informant to invest in various policy so that he will get 11% interest but the informant refused to comply with it at that time. Thereafter, accused persons again told the informant that he is agent of Edelweiss Company and the complainant can get 11% returns. Relying on these representations, the informant introduced his friend. According to the prosecution between 1

April 2020 to 6 January 2021 the informant invested total sum of Rs.1,25,59,532/- with the accused persons. The accused persons refunded part of the amount but major part remained with the accused persons. The allegation against the applicants is that the accused persons introduced the applicants as his friend for purchase of informant's property. The applicants got executed sale deed of four properties. The applicants paid part consideration but refused to pay remaining consideration. Therefore, the informant lodged report against the applicants.

3. Learned Sessions Judge rejected the applications filed by the applicants under Section 438 of the Criminal Procedure Code, 1973 by order dated 27 November 2022. Aggrieved thereby, the applicants have filed present anticipatory bail applications.

4. Learned advocate for the applicants submitted that the information has filed a civil suit bearing Special Civil Suit No.705 of 2021 on 24 April 2021, i.e. five months before the lodging of first information report against the applicants. According to him, allegations in the report do not find place in the suit. He also invited my attention to other representations made by the informant to the other authorities wherein the allegations in the first information report against the applicants do not find place. He, therefore, submitted that the applicants are falsely implicated. The transaction between the applicant/s and informant is civil in nature.

5. Per contra, learned advocate for the victim submitted that the applicants in connivance with accused persons got sale deeds executed and, therefore, cheated the informant.

6. Learned APP submitted that despite issuance of notice under Section 91 though the applicant remained present, he failed to furnish the documents sought by the investigating officer. Therefore, he is not cooperating with the investigation.

7. Having perused the case diary and the material on record, it appears at this stage of investigation that the applicants are not involved in luring the informant and others to invest with accused persons. Prima facie, allegations against the applicants appear to be non-payment of part consideration of the sale deeds. The civil suit between the informant and applicants is compromised declaring sale deeds executed by the informant in favour of the applicants as null and void. In an application under Section 482 filed by the applicants, the informant has filed affidavit consenting for quashing report filed by the informant as against the applicants.

8. This Court protected the applicants by interim order.

9. The applicants, therefore, made out a case for grant of interim relief under Section 438 of the Criminal Procedure Code, 1973. Hence, following order:

a) In the event of arrest of the applicants in connection with C.R. No.483 of 2021 registered with Yerawada Police Station for offence punishable under Section 406, 420, 464, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860 and Section 21 and 23 of the Banning of the Unregulated Deposits Act, 2019, the applicants be released on bail on furnishing P.R. Bond in the amount of 50,000/- each with one or two sureties in the like amount;

b) The applicants shall cooperate with the investigation and make themselves available for interrogation whenever required;

10. Both the anticipatory bail applications stand disposed of in above terms. No costs.

11. In view of disposal of the anticipatory bail applications, nothing remains to be considered in the interim applications. Both the interim applications stand disposed of as infructuous.

(AMIT BORKAR, J.)