IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.852 OF 2023

Amit Shah And Anr. ...Applicants
vs.
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.1386 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.852 OF 2023

Deepak Laxmidas Khania ...Applicant
vs.
The State of Maharashtra ...Respondent

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Mr. Vrushabh Savla, for the Applicants.

Mr. Harshal Joshi, i/b. Y.R.J. Legal, for the Intervenor.

Mr. G.V. Gavand, APP, for the Respondent State.

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CORAM : ANUJA PRABHUDESSAI, J.

DATE : 27 APRIL 2023

P.C. :

This is an application under Section 438 of Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in Crime No.129 of 2023 registered with Samta Nagar Police Station, Mumbai for offences punishable under Sections 406, 420 r/w 34 of the I.P.C.

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 learned Counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Deepak Laxmidas Khania. The grievance of the First Informant is that the Applicants herein induced him to invest money in Shubh Finance on an assurance that he would get double the amount in five years. The First Informant claims that he has invested total amount of Rs.28,00,000/-, out of which Rs.7,00,000/- has been paid by cheque and the rest in cash. The grievance of the First Informant is that the Applicants have not returned the money.

4. Learned Counsel for the Applicants states that the Applicants have taken from the First Informant hand loan of Rs.7,00,000/-. They have been repaying the said amount with interest @ 2% per month, in installment of Rs.14,000/- per month. The statement of account produced by the Applicant prima facie indicates that the Applicant has been paying to the First Informant Rs.14,000/- per month. This fact prima facie substantiates the contention of the Applicant that he had taken hand loan of Rs.7,00,000/- and that the FIR has been lodged in view of dishonour of one of the cheques issued towards repayment of the loan installment.

5. Learned APP states that apart from the First Informant, no other person has invested money with the Applicants. There is no prima facie material to show that the Applicants had floated finance company or any such scheme whereby they had induced the investors to invest money in the said scheme. Though the First Informant claims to have invested an amount of Rs.28,00,000/-, only an amount of Rs.7,00,000/- has been paid by cheque. There is no prima facie material to prove the payment of balance amount, which was allegedly paid in cash. Considering the above facts and circumstances, this Court, by order dated 21 March 2023, had granted interim protection to the Applicants. Learned APP states that the Applicants have reported to the Investigating Officer and they have been interrogated. The facts and circumstances in the case do not justify custodial interrogation.

6. Hence, the application is allowed. Interim protection granted on 21 March 2023 is confirmed. The Applicants shall report to the Investigating Officer as and when required.

7. The application and the interim application stand disposed of.

(ANUJA PRABHUDESSAI, J.)