IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1279 OF 2023

Janhvi Nitin Joshi ...Applicant
vs.
The State of Maharashtra ...Respondent

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Ms. Tripti R. Shetty a/w Mr. Suresh Jhambhale - Advocate for the Applicant
Mr. H. J. Dedhia - APP for the Respondent-State

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CORAM : S. M. MODAK, J.

DATE : 04th MAY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP. The officer is present.

2. When the present Applicant alongwith her Husband Nitin Joshi has approached this Court earlier vide Anticipatory Bail Application No. 3218 of 2022 this Court has directed the investigating officer to follow the mandate set out under Section 41-A of the Criminal Procedure Code. The said order dated 18/11/2022 is on page no. 69. Thereafter again both of them have approached this Court vide Anticipatory Bail Application No. 3292 of 2022. This

Court again vide order dated 25/11/2022 (page no. 64) was pleased to direct the investigating officer to give 72 hours notice to the Applicants. Thereafter the husband of the Applicant came to be arrested and he has granted regular bail. Whereas the Thane Nagar Police Station have issued notice to the present Applicant asking her to remain present on 14/02/2023. They have also mentioned how she has given false information when she has attended the Police station earlier. The Police have verified the explanation given by her on one hand and the information disclosed during custodial interrogation of her husband on the other hand and they have concluded that the Applicant has furnished wrong and misleading information. On this background, I have heard both of them.

3. The background of the F.I.R. is that the first informant was assured by both these Applicants for good returns, if he will invest in their construction business. They have met each other on several occasions. The total amount invested by him comes to Rs. 93,00,050/-. It is in cash as well as through bank. These Applicants some how also induced one Ketan Karkhanis also to invest in the construction business. He has invested amount of Rs. 10,00,000/-. The total amount misappropriated at the time of the F.I.R. comes to

Rs. 1,03,00,050/-. They were plain investors. Accordingly, an offence under Sections 420, 406 read with 34 of the Indian Penal Code is registered against both of them.

4. During investigation, the Police have also recorded statement of some more investors who were also induced to part away the money and invested in the construction business. One of such investor is one Dhananjay Shankar Raut. His statement is on page no. 130. There is an agreement of settlement executed in between the said Dhananjay and the present Applicant. These Applicants have agreed to repay the amount and also issued cheques. It is contended by Ms. Tripti Shetty learned Advocate for the Applicant that there are various overwriting in the said agreement.

5. Learned APP pointed out to me the statement of accounts standing in the name of Ms. Aryan Enterprises in RBL Bank at page no. 260 suggesting that an amount of Rs. 10,00,000/- is deposited in her account by husband. Detailed extract is there from page no. 260 to page no. 277.

6. Learned Advocate Ms. Shetty for the Applicant further submitted that in fact this account is maintained by her husband and

she is not aware about the entries. It is true that this Applicant has issued two undated cheques in favour of the said Dhananjay Raut for Rs. 2,00,000/- and Rs. 3,00,000/-. They are on page nos. 145 and 146. These cheques belies the contention that the Applicant is not connected to the offence of the cheating. Though Ms. Shetty tried to submit that all these investors have not deposited money through bank only but there are cash investments also and it is not supported by any receipts. Still there are investments made through bank if any amount paid tune of Rs. 10,00,000/- is deposited in any one bank account, it is difficult to digest at this stage that the said person i.e. Applicant is not aware about the said amount.

7. It is difficult to accept that it is the Applicant's husband who is operating that account. There are several entries from that account they are meager amount and also amount in thousands. The first informant has referred about the Applicant in the F.I.R, in a legal parlance, the Applicant maynot be connected to the said business however she has participated in the meetings and she is receiver of Rs. 10,00,000/- also, these materials are sufficient to say that the Applicant is very much involved in the commission of the present offence. At the most it can be said that her role is not as major as of

her husband. Just because she is lady she cannot be granted protection particularly when the allegations are there showing her involvement. So her custodial interrogation is required. Even though she has attended Police Station she had given false and misleading information. On this background, there is necessity of custodial interrogation. Hence application is rejected.

8. These are my prima-facie observations, the trial Court shall decide the case on its own merits without being influenced by this Order.

[S. M. MODAK, J.]