IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1518 OF 2022
WITH
INTERIM APPLICATION NO.1322 OF 2023
WITH
INTERIM APPLICATION NO.46 OF 2023

Gauri Parvir Parkar ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Harshvardhan Salgaonkar a/w. Mr. Tejas Mane, for the Applicant.
Mr. R.M. Pethe, APP, for the Respondent/State.
Mr. Hemant Ghadigaonkar, for the applicant in IA.No. 46 of 2023.

CORAM : N. J. JAMADAR, J.
DATE : AUGUST 22, 2023

P.C.:

1. This is an application for pre-arrest bail in connection with C.R. No. 186 of 2022 registered with Matunga police station, Mumbai for the offence punishable under sections 406, 420 read with 34 of Indian Penal Code, 1860 and sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 (the Act, 1999).

2. Mr. Pravir Parkar, the co-accused and the husband of the applicant made a representation that he was the President of Shree Maharaj Group of Companies (Maharaj, a Financial Establishment).

The applicant was stated to be Associate Director of the said company. The applicant and the co-accused allegedly made a representation that they were developing the plantation and tourism scheme at Kurli-Ghonsari, Tal. Vaibhavwadi, Dist. Sindhudurg, which will give huge returns. The first informant Mr. Prabhakar Parab and others were induced to invest various amounts by making a representation that each of the investors would be given 3 Gunthas land and a house would be constructed thereon and there would be a common farming of the agriculture land and thereby each of the investors would receive huge financial benefits.

3. The first informant alleged that the applicant and her associates and others made them to invest a huge amount to the tune of Rs. 1.50 Crores and the Financial Establishment committed fraudulent default in repayment of the said amount and the return promised thereon. Having realized that the scheme was floated to dupe unsuspecting persons, the first informant lodged the report.

4. It would be suffice to note that at about 90 investors were made to invest varying amounts in the said scheme. The applicant claimed that out of those 90 investors the applicant and the co-

accused settled the claims of about 40 investors. Thus, initially the interim protection came to be granted to the applicant as the applicant had shown willingness to settle the claims of about 46 investors aggregating to Rs. 4 Crores. Progressively the applicant resiled from the statements/undertaking made before this Court. Ultimately, vide an order dated 1st August, 2023, this Court was persuaded to vacate the interim relief as, despite repeated assurances and extension of time, the applicant and the intervener who had professed to deposit the amount of Rs. 2.30 Crores, failed to deposit the same.

5. Mr. Salgaonkar, the learned counsel for the applicant would submit that the applicant being the wife of the co-accused Mr. Pravir Parkar, the key person of Financial Establishment, has been falsely roped in. It was never the intention of the applicant, or for that matter the co-accused, to dupe the investors. The scheme could not materialize. Two of the principal reasons were, the inability of Maitreya Farm with whom Maharaj had entered into MOU dated18the March 2013 to develop the said scheme and declaration of 192 villages, including the area where the subject land was situated, in the eco-sensetive zone, entailing restriction on development. Yet, the applicant and co-accused settled the claims of

40 odd investors. All the properties of the applicant and the co-accused have been seized. In the circumstances, the applicant deserves the exercise of discretion, urged Mr. Salgaonkar.

6. The learned APP and the counsel for the intervener/ informant party stoutly resisted the prayer for pre-arrest bail. It was submitted that the applicant obtained a long leash by giving false assurances. The applicant had the audacity to file even a false affidavit stating that the applicant and co-accused own only one property. Eventually, when the true state of affairs was brought on record, the applicant tendered apology. The conduct of the applicant disentitles her the relief of pre-assert bail. It was further submitted that the custodial interrogation of he applicant is warranted to facilitate further investigation and recover the amount which has been embezzled.

7. First and foremost, I find it rather difficult to accede to the submission on behalf of the applicant that the applicant has no role in transaction in question and she has been impleaded for merely being the wife of the President of Maharaj. The MOU under which the investors were made to invest the amount have been executed by the applicant for and on behalf of the Maharaj. Secondly, the

very MOU indicates that Maharaj professed to represent that it was the owner and occupier of the land situated at Kurli-Ghonsari, Tal. Vaibhavwadi and professed to sale the same to the prospective purchasers/investors. Mr. Salgaonkar, learned counsel for the applicant fairly conceded that Maharaj did not own the said land. In fact, Maharaj was to get development rights from Maitreya Farm.

8. Thus, prima facie, the records indicates that since inception Maharaj made a false representation proclaiming it to be the owner and occupier of the subject lands and induced the investors to make investment in the plantation and tourism scheme.

9. The fact that the first informant and other investors were made to invest the amount is incontrovertible. Prima facie, in the face of the absence of ownership or pre-existing development rights in the Maharaj, the default in repayment, along with return on the said amount, falls within the mischief of section 3 of the Act, 1999.

10. To add to this, the conduct of the applicant before this Court impairs the applicant's claim for discretionary relief. As noted above, the Court was constrained to vacate the interim order on account of repetitive failure on the part of the applicant to honour

the statements made before this Court. What exacerbates the situation is the filing of an incorrect affidavit as regard the assets of the applicant. The order passed by this Court on 6th June, 2023 reflect the conduct of the applicant. This Court observed inter alia, as under:-

> “3. Pursuant to the Order dated 10.04.2023, the first informant filed an affidavit giving details of the other properties held by the Applicant. Learned Counsel for the Applicant also does not dispute that the Applicant owns the properties mentioned in the affidavit filed by the Intervenor. Learned Counsel for the Applicant states that some of these properties have been attached and sold, and that the assets mentioned in paragraph 3(ii), 3(iii) and 3(iv) are non performing assets, and that the physical possession is with City Co-op Bank. As regards the property mentioned in paragraph 3(v) and 3(vi) is concerned, it is stated that the said flat/properties have been sold. As regards the property mentioned in paragraph 3(vii) of the affidavit filed by the Intervenor, the Applicant has admitted that the name of her husband is recorded in 7 x 12 extract, and has further admitted that the property belongs to her husband’s family. As regards the property mentioned in paragraph 3(viii) of the affidavit of the Intervenor, the Applicant states that the said property is of her mother-in-law and that she is only residing in the said premises. The Applicant has tendered apology for not disclosing the said facts and has further stated that an endeavor will be made to sell the property at Kunkeshwar and to clear the dues of the investors.”

11. Cumulatively, the nature of the accusation, the element of suppression which the conduct of the applicant manifested and the huge amount of which the unsuspecting investors were duped by painting a rosy picture of sumptuous return, dissuades the Court from exercising the discretion in favour of the applicant.

12. Indeed the custodial interrogation of the applicant would facilitate further investigation and lead to possible money trail and also unearth the assets, if any, acquired by employing the money which the investors were made to part with.

Hence, the following order.

ORDER

1] The application stands dismissed.

2] It is clarified the observations are prima facie and confined to determine the entitlement to pre-arrest bail.

(N. J. JAMADAR, J.)