IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1922 OF 2022

1. Mrs. Charmi Parag Solanki
2. Mr. Vinit Parag Solanki … Applicants

v/s.

The State of Maharashtra …. Respondent

Mr. Ashok Vardhan Purohit i/b. Mr. Avinash S. Ovhal
for the Applicants.
Mr. S.V. Gavand, APP for the State.
Mr. V. Chavan, PI, Park Site Police Station, Mumbai, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 21st MARCH, 2023.

P. C. :-

. Learned counsel for the Applicants seeks leave to file an additional affidavit. Leave is granted. Copy of the additional affidavit is furnished to the learned APP.

2. This is an Application under section 438 of Cr.P.C. filed by the aforesaid Applicants for pre-arrest bail in C.R.No.08/2022 registered with Park Site Police Station, Mumbai for offences punishable under sections 406, 420, 465, 468, 471, 475 r/w. 34 of the Indian Penal Code.

3. Heard learned counsel for the Applicants and learned APP for the State. I have perused the records and considered the submissions

advanced by the learned counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by Murtuza Mohammad Machiswala. It is the case of the first informant that in the year 2017, he got acquainted with Parag Solanki, the husband of the Applicant No.1. In the year 2019, said Parag Solanki informed him about the company 'PRI GOLD' and told him that the said company was of his friend – Naresh and that one Sushil Kumar was the CEO of the said company. Said Parag Solanki induced the first informant to invest money in PRI GOLD on an assurance that he would get good returns almost at the rate of 20% to 30% of the amount invested. It is stated that from 12/02/2019 to 02/01/2021, the first informant and his wife invested a total amount of Rs.2,53,81,760/-. The first informant has stated that in the year 2020, the co-accused Parag Solanki told him that there would be a delay in repayment of the amount because of the lockdown due to the outbreak of the Covid-19 pandemic.

5. In September, 2020, the co-accused Parag Solanki informed him that PRI GOLD has credited an amount of Rs.7,73,00,500/- into the account of his Company called Matchwell. He has stated that he did

not receive any message from the bank and when he contacted Parag Solanki and inquired about the deposit, he gave him some evasive replies. Some days later, the co-accused Parag Solanki informed him that the account of the Company was freezed by the Enforcement Directorate. The first informant went to the office of the Enforcement Directorate to confirm the said statement and he was informed that none of the account of PRI GOLD was freezed.

6. The first informant thereafter contacted the co-accused Parag Solanki, his wife and his son i.e., the Applicants herein and requested for a refund of the amount. The co-accused told the first informant that he would return the money by mortgaging the property with one Jitendra Sagvekar. The co-accused did not refund the money despite such assurance. The first informant contacted said Jitendra Sagvekar and he was shown a letter on the letter head of L&T Construction Co. addressed to Jitendra Sagvekar and Jagdish Soni, CEO of the said Company stating that the money of the co-accused Parag Solanki was withheld by L&T Company. The first informant visited the office of L&T Company along with Jitendra Sagvekar and tried to contact CEO – Jagdish Soni and learnt that Jagdish Soni was a fictitious person. They were informed that the letter head given to Jitendra Sagvekar was

forged.

7. The first informant has stated that the co-accused-Parag Solanki had also taken Rs.40,00,000/- from Ms. Yashoda Tarnath Ucchil, his mother-in-law, on an assurance that he would make her a member of Board Committee of L&T Company. The first informant therefore lodged a complaint against the co-accused-Parag Solanki and the Applicants herein being his wife and son for cheating for an amount of Rs.2,53,81,760/- in addition for cheating his mother-in-law Yashoda Tarnath Ucchil for an amount of Rs.40,00,000/-. Based on these allegations, the aforesaid crime came to be registered against the Applicants.

8. Learned counsel for the Applicants contend that even prior to filing of this FIR, the first informant and Applicant No.1 had entered into a MoU which indicates that the Applicant No.1 and her husband had given to the first informant an amount of Rs.2,50,00,000/- as friendly loan. He submits that infact the first informant owes an amount of Rs.2,50,00,000/- to the Applicant No.1 and her husband. Learned APP has produced before me a copy of the letter dated 14/01/2020 signed by the Applicant No.1 and her husband-Parag

Solanki which reads thus :-

> *" This is in reference to our deal for investment in Gold Business/Gold Bond an Amount of Rs.2,53,81,760/- (Two Crores Fifty Three Lakhs Eighty One Thousand Seven Hundred and Sixty Only). We will be getting an Amount of Rs.7,73,00,900/- (Seven Crore Seventy Three Lakhs and Nine Hundred Only) and We will be transferring the money directly to your Account. To safeguard you against any query from the Income Tax Department for the excess amount transferred. We request you to enter into a Memorandum of Understanding where We will show that We had given you a loan of Rs.2,50,00,000/- (Two Crore Fifty Lakhs Only.) which will clear all doubts of any Authorities. So as discuss on Phone please come to our Mulund residence, where my Lawyer's office is nearby, so that we all can sign the Memorandum of Understanding. "*

9. A perusal of the said letter prima facie indicates that the MoU dated 16/01/2020 is a sham document. Furthermore, learned counsel for the Applicants fairly concedes that there is no bank entry to show that the Applicant No.1 and her husband had paid to the first informant an amount of Rs.2,50,00,000/-. In the absence of any other material, it is difficult to accept the contention of the learned counsel for the Applicants that the Applicant No.1 and her husband would give cash of Rs.2,50,00,000/- as friendly loan. The receipt annexed to the MoU states that the amount of Rs.2,50,00,000/- was transferred by

RTGS, without giving any details of bank transaction. This receipt prima facie falsify the contention that the amount was paid in cash.

10. As per the records, the first informant had transferred a total amount of Rs.1,99,48,460/- in the account of the company by way of bank transaction and in addition he had paid cash of Rs.49,91,000/- in respect of which the husband of the Applicant No.1 has issued receipts. Bank records reveal that only an amount of Rs.1,24,75,690/- has been returned. The records further reveal that both these Applicants were also the beneficiaries of the said transaction.

11. The records prima facie reveal that the Applicants had induced the first informant to invest money on an assurance to repay the said amount with interest at the rate of 20% to 30%. All that they repaid is Rs.1,24,75,690/- which is less than the principal amount invested by the first informant. The MoU coupled with letter dated 14/01/2020 as well as the false whatsapp message sent to the first informant i.e., an amount of Rs.7 Crores was credited in the bank account would prima facie suggest that the Applicants had an intention to deceive the first informant right from the inception. The co-accused-Parag Solanki as well as these Applicants are the beneficiaries of the said transaction.

12. Learned APP further states that this Court by order dated 23/01/2023 had granted interim bail and directed the Applicants to report to the Investigating Officer on 27th and 28th January, 2023. The Applicants did not appear before the Investigating Officer. On the contrary, they took some photographs from outside to create evidence that they had reported to the Investigating Officer and that they were interrogated. Learned APP has placed on record the case diary as well as the extract of the station diary which clearly shows that the Applicants herein had not reported to the Investigating Officer on 27th and 28th January, 2023. Moreover, the Applicants had not brought to the notice of the Court on 08/03/2023 that they were not interrogated despite reporting to the Investigating Officer.

13. Considering the above facts and circumstances particularly the nature of accusations levelled against the Applicants as well as the conduct of the Applicants, this is not a fit case to exercise discretion under section 438 of Cr.P.C. in favour of the Applicants. Hence, the Application is dismissed. Request for continuation of interim relief is rejected.

PREETI H JAYANI

Digitally signed by PREETI H JAYANI
Date: 2023.03.31 18:50:25 +0530

(SMT. ANUJA PRABHUDESSAI, J.)