

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.2172 OF 2023

1. Sanjeev Dhadu Poojary
2. Ravindra P. Kotian

...Applicants

Versus

The State of Maharashtra

...Respondent

...

Mr. Gautam Pyarelal for the Applicants.

Mr. S.V. Gavand, APP for the Respondent -State.

Mr. Ananta Gaikwad, API, Powai Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 4th AUGUST, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in C.R. No.374 of 2023 registered with Powai Police Station, Mumbai, for the offences punishable under Sections 406 and 420 r/w 34 of the IPC.

2. Heard Mr. Gautam Pyarelal, learned counsel for the Applicant and Mr. S.V. Gavand, learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Zoher Daudbhai Kalwart. The facts narrated in the FIR prima facie reveal that the Applicant and other partners of Vihar Canteen had induced the First Informant to invest Rs.91,25,000/- in the said partnership business on an assurance that one of the partners was to retire and the First Informant would be made a partner in the said firm. The First Informant was neither made a partner nor the money invested by him was refunded. Hence the FIR.

4. Learned counsel for the Applicant states that the Firm has received an amount of Rs.44,75,000/-. He disputes receipt of any amount in cash. The material indicates that the Applicant and others entered into a MoU with the First Informant wherein they have admitted having received total amount of Rs.91,25,000/-. Said MoU was signed by the Applicant herein. Hence, prima facie the contention of the Applicant that he has not received Rs.91,25,000/- cannot be accepted.

5. The records prima facie indicate that apart from the First Informant another person by name Tiwari was also induced to invest an amount of Rs.80,00,000/- on an assurance that he would be made a

partner on retirement of one Narayan Poojari. The records thus prima facie indicate that the Applicant herein was involved in cheating not only the First Informant but also others under the pretext of making them partners in the Firm.

6. The investigation is still at initial stage. The Investigating Agency is required to investigate whether there are other victims, who have been cheated in similar manner.

7. Learned APP submits that the complaint was filed against the Applicant by various vendors from whom the partnership firm purchases the material to run the canteen of the said partnership firm. It is stated that the Applicant herein had requested IIT, Bombay, to pay an amount of Rs.80,10,000/- to the vendors from their account. It is stated that pursuant to the said letter the account mentioned in the said letter has been freezed to the extent of Rs.51,72,183/-.

8. Under the said facts and circumstances, no case is made out for exercise of discretion under Section 438 of the Cr.P.C. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)