IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 926 OF 2024

1. Rajendra S/o Kapoor Chand Jain
2. Chandan S/o Vijaykumar Shadija
3. Vijaykumar S/o. Sadhuram Shadija
4. Vijay Kumar Agarwal
5. Smt. Prabhadevi Jain
6. Arvind S/o Kantilal Jain ….Applicants

VERSUS

The State Of Maharashtra …..Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 848 OF 2024

1. Vaibhav Navratan Daga
2. Ashok Kumar Mahavir Prasad Chaurasia
3. Mr. Rajesh Kumar Vishwakarma
4. Sunita Santalal Choudhary
5. Subodh Kumar Mahavir Prasad Chaurasia
6. Shashank Subodh Chaurasia .....Applicants

VERSUS

The State Of Maharashtra .....Respondents

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Mr. Sham Dewani, Advocate h/f. Mr. Yogesh Jadhav, Advocate for applicants in ABA No. 926/2024 and 848/2024.
Mr. D.J. Patil, APP for State

WITH

ANTICIPATORY BAIL APPLICATION NO. 422 OF 2024

1. Rajendra S/o Kapoor Chand Jain
2. Chandan S/o Vijaykumar Shadija
3. Vaijaykumar S/o Sadhuram Shadija
4. Jitendra Kumar Jain
5. Sunil Kumar Jain
6. Vijay Kumar Agarwal
7. Smt. Prabhadevi Jain
8. Arvind S/o Kantilal Jain

[Application of Applicants No. 1 to 3, 6 to 8
is withdrawn vide order dated 13.03.2024] .....Applicants

VERSUS

The Superintendent Of Police And Another .....Respondents

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Mr. Shaikh Shadab Faheem, Advocate for Applicants in ABA No. 422/2024.
Mr. D.J. Patil, APP for State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 06th AUGUST, 2024

ORDER :

1. By these applications filed under section 438 of Cr.P.C. applicants are apprehending arrest in Crime No. 1774 of 2023, registered with Tofkhana Police Station, Dist. Ahmednagar, for offence punishable under section 406 and 420 of Indian Penal Code.

2. A private complaint is filed by Sunil Rakhmaji Shelke in which the Trial Court has passed order under section 156(3) of Cr.P.C., pursuant to which, FIR came to be registered at Crime No. 1774/2023 with Tofkhana Police Station. In short it is the allegation of informant that he is working as Manager in Steel Wire Company namely M/s Jayshree Wires, MIDC, Ahmednagar, owned by Jayshree Aviraj Dongare. Her husband looks after the business and affairs of the company. Their company purchases steel wires and steel articles from Durga Steel Traders, Raipur,

Saikrupa Industries, Raipur, Krishnam Industries, Raipur, Vishwakarma Steel Udyog Pvt. Ltd, Raipur, Kiran Enterprises, Bhilai, Raipur and Avanta Engineering Pvt. Ltd., Bhilai, Raipur (for short "said companies"), through common agent/broker accused Raja Tiwari. Raja Tiwari represented informant's company that he is agent and broker of said companies and these companies have authorized him to enter into transactions with informant's company and gained confidence of informant. Therefore, by reposing faith on Raja Tiwari informant's company had also appointed him as broker for purchasing steel wires from the said companies. While making purchases, informant's company used to place order with Raja Tiwari and also used to pay bill amounts to him, he used to pay bill amounts to the concerned company. Sometimes, at the instance of Raja Tiwari informant's company used to deposit bill amounts with the concerned company for purchasing steel wires. Informant's company paid huge amount of Rs. 9,90,000/- to accused Raja Tiwari for purchasing steel wires from the said companies. Raja Tiwari has not paid said amount to the concerned companies. Therefore, accused persons including applicants gained confidence of informant's company and in collusion have deceived informant's company.

3. Heard learned advocates for applicants and learned APP for State. Perused the investigation papers.

4. Record indicates that following crimes are registered by said companies against Aviraj Dongare and Jayshree Dongare.

i) Vijay Kumar Agarwal (applicant in ABA No. 926/2024) on 06.03.2023 lodged FIR at C.R. No. 53/2023 against employers of informant namely Aviraj Dongare and Jayshree Dongare with Khursipar Police Station, Dist. Durg, under section 406 and 409 of IPC alleging criminal breach of trust to the extent of Rs. 22,67,487.

ii) Arvind Jain (applicant in ABA No. 926/2024) on 23.05.2023 lodged FIR at C.R. No. 101/2023 under section 406 and 409 of IPC against Aviraj Dongare and Jayshree Dongare with Khursipar Police Station, Dist. Durg,, alleging criminal breach of trust to the extent of Rs. 47,19,463/-.

iii) Vicky Jain (Shree Mahaveer Ispat) on 24.05.2023 lodged FIR against Aviraj Dongare and Jayshree Dongare which is registered at C.R. No. 102/2023 with Khursipar Police Station, Dist. Durg under section 406 and 409 of IPC, alleging criminal of breach of trust to the extent of Rs. 7,30,964/-.

iv) Vaibhav Daga (applicant in ABA No. 848/2024) on 24.05.2023 lodged FIR against Aviraj Dongare and Jayshree Dongare with Khursipar Police Station, Dist.

Durg, which is registered at C.R. No. 103/2023 under section 406 and 409 of IPC alleging criminal breach of trust to the extent of Rs. 56,58,289/-.

v) Ashok Kumar Chaurasia (applicant in ABA No. 848/2024) on 24.05.2023 lodged FIR against Aviraj Dongare and Jayshree Dongare with Khursipar Police Station, Dist. Durg, which is registered at C.R. No. 104/2023 under section 406 and 409 of IPC alleging criminal breach of trust to the extent of Rs. 13,77,507/-.

vi) Jitendra Jain (applicant in ABA No. 422/2024) on 24.05.2023 lodged FIR against Aviraj Dongare and Jayshree Dongare with Khursipar Police Station, Dist. Durg, which is registered at C.R. No. 105/2023 under section 406 and 409 of IPC alleging criminal breach of trust to the extent of Rs. 6,37,413/-.

vii) Shamsunder Agrawal (Sai Krupa Industries) on 24.05.2023 lodged FIR against Aviraj Dongare and Jayshree Dongare with Khursipar Police Station, Dist. Durg, which is registered at C.R. No. 106/2023 under section 406 and 409 of IPC alleging criminal breach of trust to the extent of Rs. 5,88,450/-.

5. There appears substance in the contention of applicants that present private complaint is filed with a view to give counter blast to the offences registered at the instance of applicants against Aviraj Dongare and Jayshree Dongare. In the FIR in question it is categorically alleged that informant's

company had entrusted amount of Rs. 9,90,000/- to Raja Tiwari, who has failed to pay it to the said companies. It is also admitted in the FIR that Raja Tiwari was also acting as agent/broker of informant's company. *Prima facie*, allegations made in the FIR pertain to civil dispute between informant's company and applicants' companies.

6. Applicants claim that while on interim bail some of the applicants have attended the police station and made available record of transactions of their companies with informant's company to the investigating officer. Investigation pertains to the documents, which can be made available to the investigating officer by asking applicants to attend the concerned police station and co-operate in the investigation.

7. Since dispute appears to be *prima facie* of a civil nature, applicants being reputed businessmen and having deep roots in the society, if arrested their image would be tarnished in the society. Applicants are permanent residents of Bhilai, Dist. Durg and Raipur (Chattisgarh) and they are not likely to flee away from justice. Their presence can be secured to facilitate investigation by imposing suitable conditions. Hence, the following order:

ORDER

i) Anticipatory Bail Application Nos. 926/2024, 848/2024 and 422/2024 are allowed.

ii) In the event of arrest of applicants- Rajendra S/o Kapoor Chand Jain, Chandan S/o Vijaykumar Shadija, Vijaykumar S/o. Sadhuram Shadija, Vijay Kumar Agarwal, Smt. Prabhadevi Jain, Arvind S/o Kantilal Jain, Vaibhav Navratan Daga, Ashok Kumar Mahavir Prasad Chaurasia, Mr. Rajesh Kumar Vishwakarma, Sunita Santalal Choudhary, Subodh Kumar Mahavir Prasad Chaurasia, Shashank Subodh Chaurasia, Jitendra Kumar Jain and Sunil Kumar Jain in connection with Crime No. 1774 of 2023, registered with Tofkhana Police Station, Dist. Ahmednagar, for offence punishable under section 406 and 420 of Indian Penal Code, they be released on executing Personal Bond of Rs. 50,000/- each with one surety in the like amount.

iii) Applicants shall attend the concerned police station on 26th, 27th and 28th August, 2024, between 10.00 am to 2.00 pm and shall co-operate in the investigation.

iv) Thereafter, till filing of charge sheet, applicants shall attend the concerned police station as and when called by the investigating officer and shall co-operate in the investigation.

v) Applicants shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]

Bhagyawant Punde