IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1306 OF 2023

Swapnaja Panditrao Powar .... Applicant

versus

State of Maharashtra .... Respondent

WITH

INTERIM APPLICATION NO.445 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.1306 OF 2023

Abhijit Narayan Jamble …. Intervenor/ Informant

<u>IN THE MATTER BETWEEN</u> :

Swapnaja Panditrao Powar .... Applicant

versus

State of Maharashtra .... Respondent

…....

- Mr. Tejas P. Hilge, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.
- Mr. Indrajeet Joshi, Advocate for Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.205/2023, dated 17/03/2023, registered with Juna Rajwada Police Station, Kolhapur, under sections 420, 406 r/w 34 of the Indian Penal Code.

2. Heard Mr. Tejas P. Hilge, learned counsel for the Applicant, Mr. Indrajeet Joshi, learned counsel for the Intervenor and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The FIR is lodged by one Dr. Abhijit Jambhale. He has stated that his wife was acquainted with one Kavita Patil, who in turn introduced the present Applicant to the informant and his wife. The Applicant told them that she was investing money in share market. She used to take money from different people and used to invest them in share market and used to give good returns. The FIR mentions that initially when the informant and his wife invested with the Applicant, they got returns as promised. Therefore, they invested more amount with the Applicant. They deposited Rs.7 lakhs in July 2022. The Applicant promised to return Rs.14 lakhs in September 2022

and as a security she gave three cheques. They were dishonoured. On their investment, the informant and his wife got Rs.92,000/- and Rs.40,000/-. But the rest of the amount was misappropriated by the Applicant. She gave the excuses that the trader, with whom she was dealing, was in personal difficulty and he was not returning the money. She promised to pay her dues subsequently. However, nothing was repaid. The informant has mentioned in his FIR the names of 11 others who had similarly invested with the Applicant and who had lost their amount. The FIR mentions that this amount goes to Rs.49 lakhs, which was misappropriated by the Applicant. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant herself is a victim and she had made a complaint on 06/02/2023 with the police. She had mentioned how Amol Kulkarni, a resident of Jalgaon, had induced her to invest in this scheme. According to her, the money which was given to her by her investors was given to Amol, who did not give the returns and therefore the Applicant and all her investors had suffered

financial loss. The Applicant therefore herself was a investor and a victim. He further submitted that the investors mentioned in the FIR and other alleged victims, were directly dealing with Amol and were depositing their amounts with Amol. Therefore, the Applicant is not responsible. He further submitted that the investors had forged some pamphlets to show that the scheme was completely controlled by the Applicant. Those pamphlets were forged and representations made in those pamphlets were misleading and false.

5. Learned counsel for the Intervenor submitted that the Applicant has not pointed out that there was a privity of contract between the Applicant and the informant, which is evident from the fact that the Applicant had entered into an agreement with the first informant. Learned counsel for the informant referred to a copy of the agreement annexed at Ex.B to his Intervention Application. Such agreement is dated 25/07/2022, wherein the Applicant had accepted that she had taken Rs.7 lakhs. She had undertaken to return Rs.14 lakhs. Learned counsel for the Intervenor submitted that the Applicant had similarly entered

into different agreements with different investors. Therefore, it cannot be said that the investors were directly dealing with Amol and not with the present Applicant.

6. Learned APP produced the investigation papers before me. The investigation carried out so far has revealed that there were total 22 victims who had invested the amount of Rs.47,70,000/-. Out of which Rs.11,90,000/- were returned and there was misappropriation of the amount of Rs.35,80,000/-. Learned APP invited my attention to the statements of various victims viz. Aparna Patil, Parshuram Patil, Swarupa Patil etc. All of them have given similar statements as to how they invested their money and how it was misappropriated.

7. Considering the above material produced before me, it is quite clear that the Applicant had taken investment from all these victims on false representation of making return of high profit. But the amount was misappropriated. There was a separate agreement between the investors and the Applicant herself. Therefore, she cannot put the entire blame on Amol. She

is directly responsible for commission of this offence. In this view of the matter, her custodial interrogation is necessary. The money trail has to be traced. The offence is serious. Many victims are duped of their different amounts. Therefore, the Applicant cannot be protected u/s 438 of Cr.P.C. At this stage, learned counsel for the Applicant submitted that by the previous order, the Applicant was directed to deposit Rs.10 lakhs in this Court, which is already deposited by her on 25/05/2023.

8. Considering these submissions, since the application is being rejected, the amount deposited by her, will have to be returned to her.

9. Hence, the following order :

O R D E R

(i) The application is rejected.

(ii) The amount which the Applicant has deposited in this Court in connection with the present subject matter, shall be returned to her with the accrued interest.

(iii) With these directions, the application is disposed of.

(iv) Connected Interim Application is also disposed of.

(SARANG V. KOTWAL, J.)