IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.683 OF 2024

Suresh Kunjbihari Chauhan & Anr. .... Applicants

versus

State of Maharashtra .... Respondent

…....

- Mr. Sanjay R. Singh, Advocate for Applicant.
- Ms. Rajeshree V. Newton, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 11th MARCH, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.515/2023, dated 12/05/2023, registered with Sakinaka Police Station, Mumbai, under sections 406, 420 r/w 34 of the Indian Penal Code.

2. Heard Mr. Sanjay Singh, learned counsel for the Applicant and Ms. Rajeshree Newton, learned APP for the State.

3. The FIR is lodged by one Shantabai Javalge. She has stated that she got acquainted with the Applicant Gulabi Chauhan through Bhishi group in the year 2014. The Applicant Gulabi had told her that she wanted to sell her room and if anybody was interested, she could be informed. The informant herself wanted to purchase a room. The Applicant No.2 showed her the room at building No.20/H/702, Datta Sai Society, Sangharsh Nagar, Chandivali. The informant decided to purchase that room for Rs.10 lakhs. It is her case that between October 2014 to December 2014, she paid Rs.10 lakhs to the Applicant No.2. An agreement for sale was executed and notarized on 30/12/2014. On 01/01/2015 the informant requested for possession. The Applicant No.1 told her that they had not made any alternate arrangement and requested for further period. After that for some reason or the other, the possession was not given. The informant came to know that the Applicants had taken money from one Lalita Tiwari as well. The possession was neither given to the informant nor to said Lalita. Both of them realised that they were cheated. The informant lodged her FIR.

4. Learned counsel for the Applicants submitted that there was never any transaction of sale of the Applicants' room. The Applicants had taken loan from the informant to the tune of Rs.2 lakhs and from Lalita to the tune of Rs.1 lakh. Only for convenience, the agreement for sale was executed with the informant. With Lalita, it was clearly mentioned as a loan transaction. He submitted that the informant and Lalita's husband were carrying on illegal business of money lending without license. Many people like Applicants had to pay exorbitant interest. Since they were in immediate need of money, they executed certain documents. The informant was taking advantage of this position. He submitted that the Applicant has addressed a letter in the month of February 2015 to various authorities pointing out this fact. In that complaint, the Applicants had specifically mentioned the name of Lalita's husband and the first informant. He submitted that the police had made enquiries in respect of the informant Shantabai's complaint in 2019. Even then, the Applicant No.2 had explained her stand. He submitted that the alleged transaction was from

the year 2014 and the FIR is lodged in the year 2023 i.e. nearly after 9 years. That delay has remained explained. It shows that the FIR is lodged only to pressurize the Applicants.

5. Learned APP produced the investigation papers before me. There is a statement of the aforementioned Lalita. She has stated that she has paid Rs.10 lakhs to the Applicants, but the document executed between them showed that it was a loan transaction. The documents also contain the notarized agreement between the Applicants and the informant. That agreement is dated 30/12/2014.

6. I have considered these submissions. Considering that the Applicants had sent complaint to various authorities in the year 2015 itself, shows that there may be some substance in the arguments of the learned counsel for the Applicants. In that complaint it was mentioned that both these persons, i.e. the informant and Lalita's husband, were carrying on illegal business of money lending. That complaint was made immediately in February 2015. As against that, the informant has chosen to file

this FIR much belatedly in the year 2023. There is some reference to some enquiry in the year 2019, but it was not taken to its logical end. The fact remains that the FIR is lodged in the year 2023 i.e. nearly after about more than 8 ½ years. This conduct of the informant shows that there is substance in the submission of learned counsel for the Applicant. Therefore, in this background, the Applicants' custodial interrogation will not be justified. It is sufficient if they cooperate with the investigation.

7. Hence, the following order :

ORDER

(i) In the event of their arrest in connection with C.R.No.515/2023, dated 12/05/2023, registered with Sakinaka Police Station, Mumbai, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

(ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)