IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 909 OF 2022

1. Mrs. Parizaad Engineer,
2. Bhupinder Balwant Singh ..Applicants

Versus

The State of Maharashtra ..Respondent

Mr. Tariq Khan for Applicant.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 27 MARCH 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.245 of 2022 registered at Powai Police Station, Mumbai, on 26.03.2022, under sections 464, 467, 468, 471, 409, 419, 511, 199, 193 and 120-B of the Indian Penal Code.

2. Heard Mr. Tariq Khan, learned counsel for the applicant and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by one Rajiv Kutti. He has stated that, in 2011 he had a business of distribution of L.G. Televisions.

His brother in law was a partner. He was knowing the applicant No.1 Parizaad. She had helped him in a transaction of sale and purchase of a hotel. Therefore, since 2012 they had good business relations. In that year, his partner-brother in law passed away. He suffered heavy losses in his business. He informed the applicant No.1 about his financial state. She suggested that, she could help him through the applicant No.2 Bhupinder Singh who was planning to start a business of wholesale distribution of foreign liquors. All of them met together. The applicant No.2 told him that the informant's premises could be used for their business and investment for conducting the business would be of the applicant No.2. The F.I.R. mentions that the applicant No.2 paid Rs.4,40,00,000/- in the informant's account, but there were difficulties in getting the license. The informant because of his financial liabilities utilised Rs.2,60,00,000/-, out of that amount, and returned Rs.1,75,00,000/- on the applicant No.2's account. It is the informant's case that the applicant No.2 demanded interest of Rs.25 lakhs. It is alleged that the applicant No.2 started harassing the informant. Ultimately, getting fed up with the constant harassment at the hands of both the applicants, the informant decided to sell his residential flat bearing Flat No.601, Lake Front Solitaire Society, Adi Shankaracharya Marg, Powai, to the applicant No.2 if he paid Rs.5,15,00,000/- more. The applicant No.2 told him that, if the informant did not want to sell that flat to the applicant No.2 and if wanted to sell it to somebody else for a higher price, then the informant had to return the principal amount of Rs.4,40,00,000/- and interest of Rs.2,97,00,000/-, making the total amount of Rs.6,97,00,000/-. At that time, the informant suggested that the applicant No.2 should pay him Rs.5,15,00,000/-; to which, the applicant No.2 showed his willingness. But both the applicants put the condition that a special power of attorney be executed in favour of the applicant No.1 Parizaad. It is the informant’s case that, it was also decided that, at the time of registration of the sale deed, the said amount was to be deposited in the informant’s account. It is further mentioned that the power of attorney in favour of Parizaad was executed by the informant and was registered at the Sub-Registrar’s office on 12.09.2018. The applicant No.2 paid

Rs.1,50,00,000/- in the bank account of the informant's wife Rachel. The F.I.R. further mentions that, on one day the applicant No.1 obtained signatures of the informant on some documents. It was done hurriedly on the pretext that she wanted to catch a flight. The applicant No.2 was not present. There was an MoU which was purportedly signed by the applicant No.2 on 12.09.2018. The F.I.R. goes on to mention that, the informant did not receive the balance amount of Rs.3,35,00,000/-. The informant, however, came to know that the applicant No.1 misused the power of attorney and registered the said flat in the name of the applicant No.2 on 13.02.2019. There was a receipt and possession letter mentioning that Rs.3,29,85,000/- were paid to the informant. But that amount was not actually paid to the informant. Thus, according to the informant, these documents were forged. On these allegations the F.I.R. was lodged.

4. Learned counsel for the applicants submitted that the allegations in the F.I.R. are not true. In fact, the applicants themselves have lodged another F.I.R. against the informant Rajiv Kutti herein on the allegations of misappropriation of the amount

of more than Rs.4 crores. The informant Rajiv had not co-operated with the execution and registration of the sale deed. A huge amount was misappropriated. Learned counsel also submitted that, as of today, the dispute between the parties is referred to the Sole Arbitrator pursuant to the order passed by a Single Judge bench of this Court on the Original Side in Commercial Arbitration Application No.113 of 2023 vide the order dated 24.07.2023.

5. Learned counsel for the first informant accepted the fact that, as of today the matter is referred to arbitration. He, however, stuck to the averments made in the F.I.R.

6. Learned APP submitted that the investigation has revealed that the agreement for sale is executed and registered under the signatures of the informant and his wife themselves.

7. I have considered these submissions. The applicants were protected by way of ad-interim order passed on 25.04.2022. Thus, for about two years the applicants are on ad-interim protection. There are claims and counter claims made by both the parties, which are the subject matter of the arbitration proceedings between the parties. Learned counsel for the applicant submitted

that the applicants have attended the concerned police station as and when called and they have co-operated with the investigation. They have handed over the original documents to the investigating agency. Learned APP accepts that the original documents are handed over to the investigating agency. As mentioned earlier, substantial amount has been paid by the applicant No.2 to the first informant. Considering all these aspects, I am inclined to protect both these applicants U/s.438 of the Cr.p.c. It is made clear that, all these observations are made only for the purpose of passing of this order.

8. Hence, the following order :

O R D E R

i) In the event of their arrest in connection with C.R.No.245 of 2022 registered at Powai Police Station, Mumbai, the applicants are directed to be released on bail on their executing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

ii) The Application is disposed of.

(SARANG V. KOTWAL, J.)