IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 851 OF 2024

Swapna Raj Shah ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Shadab Khopekar for Applicant.
Mr. Avinash A. Naik, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 1 APRIL 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.46 of 2024 registered at Charkop Police Station, Mumbai, on 20.01.2024, under Sections 406 and 420 of the Indian Penal Code.

2. Heard Mr. Shadab Khopekar, learned counsel for the applicant and Mr. Avinash Naik, learned APP for the State.

3. The F.I.R. is lodged by one Pradipkumar Solanki. He had retired from the Bombay Port Trust Ltd. In 2021, he and his son in law Sikandar Chavan wanted to purchase rooms for their

residence. One Ashok introduced them to the applicant's husband Raj Shah. They went to his house and had discussion with him. The applicant's husband then asked them to fill different forms. Those forms had seal of the Chief Minister. The F.I.R. goes on to mention various occasions on which different amounts were paid by the informant in his own name and in the name of his son. The informant's son-in-law had also paid some amount. In all, they paid Rs.17,50,000/-. The F.I.R. mentions that, one of the cheques for Rs.5 lakh given to the applicant's husband was deposited in the applicant's account in Bank of Baroda. Ultimately, the entire representation turned out to be fraudulent. No rooms were given to any of them. On this basis, the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, she is a lady having minor children. The entire fraud was allegedly committed by the present applicant's husband and not by the applicant. The only allegation in the F.I.R. is that the cheque of Rs.5 lakhs given to the applicant's husband by the informant was deposited in the applicant's account held with the Bank of Baroda. Beyond that, there are no allegations in the F.I.R. Learned counsel

further submitted that the entire fraud is played by one Mahendra Gore. The applicant's husband was working for him. Even the applicant's husband is not responsible. The applicant herself has no role to play.

5. Learned APP opposed these submissions. On instructions, he submitted that the investigation has revealed that the applicant's account held with the Bank of Baroda showed heavy transactions to the tune of Rs.99,89,737.83. The applicant was a homemaker and, therefore, she was not earning anything either from her business or employment. All these transactions are unexplained. The investigation was carried out in respect of the transactions from February 2021 up to January 2024. During that period, there were many other victims who were similarly cheated by the applicant and her husband. There are statements of some of the witnesses who have specifically described the role played by the present applicant. Learned APP relied on such statements. He submitted that, as of today, the number of the victims is 8 and the total amount misappropriated is to the tune of Rs.98 lakhs; and some more victims are likely to come forward.

6. I have considered these submissions. While it is true that, in the F.I.R. there is only one allegation against the applicant which is about deposit of cheque of Rs.5lakhs in her account. However, there are statements recorded during the investigation. Jatin Soni has stated that, he was similarly made a representation by the applicant's husband that he could get a room from the reserved quota of the Government. The said witness had gone to the applicant's house. The applicant was present with her husband. Her husband showed him different photographs with different Minsters. At that time, the applicant had specifically supported her husband and had told this witness that her husband could get a room for the said witness for a lesser amount. The said witness had specifically stated that, he and his 12 relatives collected Rs.4 lakhs each and thus, paid Rs.48 lakhs to the applicant in her house. There is a specific statement that, he handed over that cash to the present applicant.

7. There are statements of other witnesses like Umesh Kamble, Payal Pandere, Abhinav Vishwakarma, Vimala Vishwakarma, Parvati Solanki etc. All of them have specifically

stated that, even the applicant had supported the representation made by her husband that he could get a room from MHADA for a lesser price. Thus, at this stage, there is definite incriminating material against the present applicant. Her bank transactions show that heavy amount was involved which remained unexplained. All this requires custodial interrogation. Therefore, the applicant cannot be protected U/s.438 of the Cr.p.c.

8. The Application is rejected.

(SARANG V. KOTWAL, J.)