IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1100 OF 2024

Anjali Prafull Waghmare & Anr. .... Applicants

versus

The State of Maharashtra & Anr. .... Respondents

…….

- Mr. Gaurav Bhawnani, Advocate for Applicants.
- Ms. Mahalakshmi Ganapathy, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd APRIL, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.157/2024, dated 19/02/2024, registered with Wanvadi Police Station, Pune City, under sections 406, 420, 468, 120-B r/w 34 of the Indian Penal Code and under section 3 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999.

2. Heard Mr. Gaurav Bhawnani, learned counsel for the Applicants and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The FIR is lodged by Charlott Shirsath. She is 76 years of age. She has stated that her granddaughter and the Applicant Anjali had come from Dubai to India in the year 2015. At that time, the informant and her husband got acquainted with the Applicant No.1 and her husband Praful. The Applicant No.1's husband Praful was trading in share market. He told the informant that if they were interested in trading in share market, he could help them and he could give them handsome returns. The FIR goes on to mention as to how on his representation, a separate DMAT account was opened in ICICI Bank and from that DMAT account, the Applicant No.1's husband entered into different transactions earning money. The allegations against the Applicant No.2 is that he helped the informant and her husband to open that DMAT account in ICICI Bank. The allegations are that the Applicant No.1's husband committed misappropriation of the shares and the allegations are that he had caused loss to the tune of Rs.90 lakhs in the DMAT account. There are allegations that there was trading in that account earning profit to the tune of Rs.13,46,987.84 which the Applicant No.1's husband had misappropriated.

4. Learned counsel submitted that in the entire allegations there are hardly any roles attributed to the present Applicants. The Applicant No.1 had merely introduced her husband to the informant and her husband when they had met at the airport. Apart from that, she had not played any role. As far as the Applicant No.2 is concerned, he had helped the informant and her husband to open a separate DMAT account in ICICI Bank as suggested by the Applicant No.1's husband Praful. There are no allegations that he himself had carried out any transaction in that account or he has misappropriated the amount. Therefore, at this stage, the Applicants can be protected u/s 438 of Cr.P.C.

5. Learned APP submitted that she has no submission to make as far as the Applicant No.1 is concerned except that she had introduced the main accused i.e. her husband to the informant. However, she submitted that the Applicant No.2 was instrumental in opening that DMAT account through which the transactions were carried out by the main accused Praful and therefore to that extent he has played a significant role in the offence.

6. I have considered these submissions. The Applicant No.1 has merely introduced her husband to the informant and her husband. That can hardly be called as an offence. If her husband has taken advantage of their acquaintance and had committed further acts, which amounted to the offence, for that Applicant No.1 cannot be held responsible. Therefore, the Applicant No.1 can be protected u/s 438 of Cr.P.C. Even as far as the Applicant No.2 is concerned, though he had helped the informant and her husband in opening the DMAT account in the ICICI Bank, that was done with the instructions from the informant herself. It is another issue that they had done so at the behest of the main accused Praful, but for that the Applicant No.2 cannot be held responsible. More importantly, there are no allegations that the Applicant No.2 had entered into any transaction using that DMAT account. He has not dealt with the shares using that DMAT account. There are no further allegations that the Applicant No.2 himself had gained wrongful profit from the entire transaction. In this view of the matter, even the Applicant No.2 can be protected u/s 438 of Cr.P.C.

7. Hence, the following order :

ORDER

(i) In the event of their arrest in connection with C.R.No.157/2024, dated 19/02/2024, registered with Wanvadi Police Station, Pune City, 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.

(SARANG V. KOTWAL, J.)