IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CR. ANTICIPATORY BAIL APPLICATION NO. 3328 OF 2022

1. Manish Jaikumar Jain &
2. Hitashi Manish Jain ...Applicants

Versus

The State Of Maharashtra ...Respondent

Mr. A. K. Chauhan a/w. Adv. Rahul Chauhan for the Applicants.
Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J

DATED : 5th FEBRUARY, 2024

P.C.:

1. The Applicants are seeking anticipatory bail in connection with C. R. No. 830 of 2022 registered at Juhu Police Station, dated 28/06/2022 u/s. 420 r/w. 34 of the Indian Penal Code.

2. Heard Shri Chauhan, learned counsel for the Applicants and Ms. Ganapathy, learned APP for the Respondent-State.

3. The FIR is lodged by one Shrinath Pushkarnik. He has stated that he used to give money by way of loan and used to earn interest on this transaction. He was knowing one Vinodkumar Mahindra, who was the owner and director of M/s. Mahendra Rosin and Turpentine Pvt. Ltd. The FIR mentions six persons as the directors of that company. The Applicants are mentioned as two of the directors of the said company. It is mentioned in the FIR that Vinodkumar's wife

Veena, who was also a director and the informant's wife Neena were very good friends and therefore, there were good relations. Vinodkumar represented to the informant that he had a company having turnover of around Rs.50.00 Crs. He represented that his company was doing very well in the business. The informant visited the company's place of business. He was impressed initially and gave Rs.30.00 Lakhs by way of loan through his wife Neena's account. Initially interest was paid to him. As per their arrangement, the said accused Vinodkumar used to give interest for three months by way of cheques and then their transaction used to get renewed. Since it was going on smoothly, the informant invested much higher amount. The investment was in the form of gold ornaments. Thus, he invested Rs.1,24,00,000/-. But on this occasion, the interest was not paid and it is alleged that the informant was cheated for Rs.1,54,00,000/-. On these allegations, the FIR is lodged.

4. Learned Counsel for the Applicants submitted that the Applicants have no connection with the transactions between the informant and Vinodkumar. He submitted that there cannot be a vicarious liability as far as the Applicants are concerned. Though the loan was deposited in the company's account, there is nothing to show that the Applicants have personally gained from it. They had

not made any representations to the informant. All the representations were made by Vinodkumar. He submitted that the FIR was lodged in the June, 2022. More than 18 months have passed. The Applicants' custodial interrogation is not necessary.

5. Learned APP produced the investigation papers before me. There are statements of the wife and the daughter of the informant. There is an Affidavit executed by Vinodkumar. But the investigation so far has not revealed any active participation of the present Applicants. There is nothing to show that the Applicants are personally benefited from these transactions.

6. I have considered these submissions made by both the parties.

7. The FIR is lodged in June, 2022. As rightly submitted by learned Counsel for the Applicants more than 18 months have passed. So far, the investigating agency does not have any material against the Applicants to show their active participation except the allegation made by the informant that they were the directors of the company. The FIR itself shows that the entire representation was made by Vinodkumar. The informant had stated that there was personal relationship between the informant and Vinodkumar, which had resulted into this investment. Taking overall view of the matter, it is clear that the transaction was between the informant and

Vinodkumar. The present Applicants cannot be roped in this transaction. They were directors of the company but so far even after 18 months the investigating agency has not found out any material to show their active participation or to show that they had benefited from this transaction personally. Considering this aspect, the Applicants can protected u/s. 438 of the Cr.P.C.

8. Hence, the following order:

ORDER

(i) In the event of their arrest in connection with C. R. No. 830 of 2022 registered at Juhu Police Station, Applicants are directed to be released on bail on their furnishing P. R. bonds in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each with one or two sureties each in the like amount.

(ii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)