IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3545 OF 2023

Ashish Shivaji Jagtap & Ors. .... Applicants

versus

The State of Maharashtra .... Respondent

…....

- Mr. Veerdhawal Kakade i/b. Mrunal Jadhav, Advocate for Applicant.
- Smt. M. H. Mhatre, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 29th JANUARY, 2024

P.C. :

1. This is the second time the Applicants have approached this Court for anticipatory bail in connection with C.R.No.316/2021, dated 09/09/2023, registered with Vashi Police Station, Navi Mumbai, under sections 406, 420 r/w 34 of the Indian Penal Code and 3 and 4 of the Maharashtra Protection Of Interest Of Depositors Act. On the earlier occasion, they had filed Anticipatory Bail Application No.3074 of 2021. The order dated 13/01/2022 passed in that application records

that after arguing for some time when the Court expressed disinclination to grant relief, learned counsel for the Applicant prayed for unconditional withdrawal of that application. The permission was granted and the application was allowed to be withdrawn unconditionally.

2. Heard Mr. Veerdhawal Kakade, learned counsel for the Applicant and Smt. M. H. Mhatre, learned APP for the State.

3. After passing of that order on 13/01/2022 for about 2 years till today, the Applicants are not arrested and they are still absconding.

4. The present application was filed on 15/12/2023. However, absolutely no efforts were taken to get the matter circulated. The Applicants were not serious in pursuing the present application as well. They are not available for investigation. However, in the interest of justice, I have heard learned counsel for the Applicant and learned APP.

5. The FIR is lodged by one Rauf Husen Kapadi on 09/09/2021. He has stated that on 15/07/2017 the informant's wife was shopping in a mall. Some person got one coupon filled by her. In August 2017 she started receiving marketing calls from Goleisure International Holidays Private Limited. She was told that she was a lucky winner of a price. She was called to a office at Vashi to collect her gift. On 22/09/2017 the informant and his wife went to the office of Goleisure International Holidays Private Limited. There they met one Ashok Chaudhari who was a Sales Manager. He told them that they had different schemes and if the informant invested in their scheme by depositing initial membership fees of Rs.1,50,000/-, they would get different facilities like hotel, travelling, guide, gym, banquet hall dinners, movies etc. The scheme was for 5 years. When the informant expressed his inability to pay that amount, it was reduced to Rs.91,000/-. The informant deposited that amount. One agreement for membership was executed on a stamp paper. It was signed by Ashok Chaudhari. Subsequently, whenever the

informant wanted to avail of the facility of tour package, he was not entertained. The employees of the said company started avoiding the informant. They closed the office and disappeared. The informant came to know that there were 17 other victims who had similarly invested in that fraudulent company and had lost in all around Rs.19,77,000/-.

6. Learned counsel for the Applicants submitted that the Applicants never absconded and they were always available at their residence. The Applicants are ready and willing to deposit the amount of Rs.19,77,000/-. He submitted that in the past they have provided services to various other customers. Therefore, there was no criminal intention.

7. Learned APP opposed these submissions. Based on the instructions given by the Investigating Officer she submitted that the Applicants were never available for investigation purpose. They are absconding since registration of the FIR in the year 2021. There is one more similar case pending against them at

Chatushrungi Police Station vide C.R.No.1317/2020 against all these Applicants. In the said case charge-sheet is already filed. She further submitted that the offence is clearly made out in the FIR. The Applicants had collected money in a fraudulent manner. The investigation has revealed that apart from 17 persons, mentioned in the FIR there are three more persons, who are victims of fraud. More people are likely to come forward. She insisted for the custodial interrogation of the Applicants.

8. I have considered these submissions. The FIR itself is very clear. The informant and others were lured into making investment in fraudulent scheme. All their money was lost. No services were provided. False representations were made. Money was misappropriated. The offences mentioned in the FIR are clearly made out. The Applicants are absconding since 2021. There is already a similar case pending against them. The police report is filed by learned APP. It is taken on record. It mentions that all these Applicants have received money in their personal

bank account from the account of the company. The Applicant Dattaprasad More had received more than Rs.84,00,000/-. The Applicant Vishal Bhor had received more than Rs.62,00,000/- and the Applicant Ashish Jagtap had received more than Rs.56,00,000/-. Those amounts were received between 2016 to 2019. The money trail for the amounts accepted from the informant and others has to be found out. That will be possible only after arrest of the present Applicants. Considering this background, pendency of earlier similar case and also because the Applicants are absconding since more than 3 years, no relief can be granted to the Applicants u/s 438 of Cr.P.C. The custodial interrogation of the Applicants is absolutely necessary. The application is dismissed.

(SARANG V. KOTWAL, J.)