IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1621 OF 2024

Nilesh Ramrao Shelke	…	Applicant
vs.		
The State of Maharashtra	…	Respondent

AND
ANTICIPATORY BAIL APPLICATION NO. 1622 OF 2024

Jayshree Nilesh Shelke	…	Applicant
vs.		
The State of Maharashtra	…	Respondent

Mr. Vivekanand Vinod Krishnan a/w. Mr. Rishab Tiwari for applicants in both the applications.

Mr. Sagar R. Agarkar, APP for respondent-State in ABA/1621/24.

Mr. Prasanna P. Malshe, APP for respondent-State in ABA/1622/24.

Mr. M. A. Kharat, Constable, Police Station Niphad, District Nashik Rural.

CORAM : MANISH PITALE, J.
DATE : 21st JUNE, 2024

P.C. :

. Heard learned counsel for the applicants and learned APPs appearing for respondent-State.

2. The applicants before this Court are husband and wife. The application of the husband i.e. Nilesh Ramrao Shelke (accused No.2) is Anticipatory Bail Application No.1621 of 2024 and that of his wife Jayshree Nilesh Shelke is Anticipatory Bail Application No.1622 of 2024.

3. Both of them are apprehending arrest in connection with FIR No.0040 of 2024 dated 02.02.2024 registered at Police Station Niphad, District Nashik Rural for offences under Sections 406, 409, 420, 467 and 468 read with 34 of the Indian Penal Code, 1860 (IPC). There are four accused persons in the present case of whom, accused No.1 is a bank official, while the applicants are accused Nos.2 and 3.

4. The informant in the present case had initially approached the police for registration of offences against the accused persons. It appears that the offences were not registered on one ground or the other and hence, the informant was constrained to file application under Section 156(3) of Criminal Procedure Code, 1973 (Cr.P.C.) before the jurisdictional magistrate at Niphad. The magistrate passed an order directing registration of FIR and for the police to conduct investigation. Pursuant thereto, the aforesaid FIR came to be registered.

5. The grievance of the informant is that the accused persons cheated him by inducing him into applying for a loan under a Government scheme for installing shed-nets in his agricultural field. As per the Government scheme, shed-nets could be supplied by the authorized suppliers for agriculturists, for which loan could be advanced by nationalized banks. It is the case of the informant that the accused No.1, in connivance with accused Nos.2 and 3 i.e. the applicants before this Court, induced the informant into giving documents pertaining to his agricultural field for being used as collateral for obtaining loan, in order to install shed-nets in his agricultural field. It is the case of the informant that no such shed-nets were installed in his field and when he made enquiries, it came to light that the accused No.1, being a bank official, had conspired with the applicants before this Court and

obtained loan in the name of the informant. The loan amounts credited to the account of the informant, were clandestinely siphoned off and credited into the accounts of the applicants. No shed-nets were installed. In this manner, the informant was cheated and this led to registration of the aforesaid FIR.

6. The learned counsel for the applicants submitted that the loan was actually disbursed and that since the informant does not intend to repay the loan, he has came up with the aforesaid theory. It is submitted that the applicants are ready to co-operate with the investigation and considering the fact that the entire case concerns documentary material and the applicants are ready to provide all such material to the Investigating Officer, no case is made out for custodial interrogation. It is submitted that the theory of conspiracy floated by the informant is far-fetched and hence, this Court may consider allowing the present application.

7. The learned APPs appearing for the respondent-State in both the applications, have vehemently opposed the prayers. They have brought to the notice of this Court documents that have come to light during the course of investigation, including the bank account statement showing that the loan amounts were credited in the account of the informant and immediately diverted into the accounts of both the applicants. It is submitted that the applicants are not even included in the list of authorized suppliers under the Government scheme and this is a clear indication of their criminal intent to induce the informant by calling for papers pertaining to his agricultural land, to be misused for taking the aforesaid loan. No shed-nets have been installed, thereby indicating the involvement of the applicants alongwith the bank official to dupe the informant.

8. This Court has perused the contents of the application filed by the informant under Section 156(3) of Cr.P.C., which is the basis for registration of FIR. In the said application, the informant has elaborately stated as to the manner in which the accused No.1-bank official alongwith the applicants before this Court, duped him into parting with the papers pertaining to his land, which were used for obtaining the loan. It is specifically stated that the accused persons diverted the loan amount to the applicants and no shed-nets were at all installed. The statements made in the said application clearly show the ingredients of the alleged offences against the accused persons. The statements of the bank accounts brought to the notice of this Court show the *modus operandi* of the applicants and accused No.1, while they siphoned off the amounts credited to the account of the informant as loan for installing shed-nets. The contention raised on behalf of the applicants that the informant would certainly have been aware about crediting of loan amounts in his account, cannot take the case of the applicants any further, simply for the reason that in the present case, accused No.1-bank official himself is alleged to be involved in cheating the informant.

9. The nature of allegations is serious. The documents brought to the notice of this Court by the learned APPs indicate strong *prima facie* case against the applicants and hence, this Court is not inclined to grant any relief.

10. But, it is significant to note that in the present case, the applicant in Anticipatory Bail Application No.1622 of 2024, is a lady and she is the wife of the applicant in the other Anticipatory Bail Application. At present, it appears that the material against her is that the loan amounts were siphoned

off and credited in her account and that on a few occasions, such amounts were transferred from her account to that of her husband i.e. accused no.2. Other than being the alleged beneficiary of such ill-gotten money, at this stage, it does not appear that the said applicant was involved in the conspiracy or that she was the brain behind the *modus operandi* for duping the informant. It appears that the accused No.2 i.e. her husband alongwith accused No.1, had undertaken the aforesaid activity. Therefore, on this sole ground, it would be appropriate to grant relief to accused No.3-Jayshree Nilesh Shelke, while rejecting the application of her husband i.e. accused No.2-Nilesh Ramrao Shelke.

11. In view of the above, Anticipatory Bail Application No.1621 of 2024 is dismissed.

12. Accordingly, Anticipatory Bail Application No.1622 of 2024 is allowed in the following terms:

(i) In the event the applicant- Jayshree Nilesh Shelke in Anticipatory Bail Application No.1622 of 2024, is arrested in connection with FIR No.0040 of 2024 dated 02.02.2024 registered at Police Station Niphad, District Nashik Rural for offences under Sections 406, 409, 420, 467 and 468 read with 34 of the IPC, she shall be released on bail on furnishing PR Bond of ₹ 50,000/- each (Rupees Fifty Thousand only) and one or two sureties in the like amount;

(ii) she shall remain present before the Investigating Officer on 26.06.2024 between 10:00 a.m. to 12:00 noon and thereafter, as and when the Investigating Officer calls upon them to remain present;

(iii) the applicant shall not tamper with the evidence of the prosecution in any manner. She shall not influence the informant, witnesses and other persons concerned with the case.

(iv) the applicant shall co-operate with the investigation and also in the proceedings before the trial court.

13. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

14. Needless to say, the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

(MANISH PITALE, J)

Priya Kambli