IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.1842 of 2024

Deepali Balkrishna Parab
Age:41 Years, Occ: Housewife,
Adult, Indian Inhabitant,
Residence: House No.625,
Nr Ganesh Temple, Thana,
VTC Cortalim,
PO: Cortalim, Sub District: Mormugao
District: South Goa, State Goa-403710
Residing at Flat No.1205, B-wing
Opp.Agarwal College, Vaishnavi Height,
Kalyan (West) – 421 301. … Applicant.

Vs.

The State of Maharashtra
(At the instance of Sr.Inspector
of Police MHB Colony Police
Station, Borivali (West),
Mumbai-400 092 … Respondent.

Mr Sunny Waskar a/w Shamish Marwadi, for the applicant.
Mr CD Mali, APP for the respondent/ State.
PSI Khose with IO S. Shinde MHB Colony Police Station, is present.

Coram : RN Laddha, J.
Date : 5 July 2024.

P.C.:

By the present application, the applicant seeks pre-arrest bail in connection with CR No.12 of 2024, registered at

MHB Colony Police Station, Mumbai, for the offences punishable under Sections 406, 409, 420 read with 34 of the Indian Penal Code, and Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999.

2. The prosecution alleges that the co-accused, Myron and Sunita, induced the complainant to invest monies with them. From 2020 to 2023, the complainant invested Rs.5,15,00,000/-. It is further alleged that the invested amount was never returned to the complainant and routed to the personal accounts of the applicant and the co-accused.

3. Mr Sunny Waskar, the learned Counsel appearing on behalf of the applicant, strongly asserts the applicant's innocence and lack of participation in the alleged crime. He contends that the applicant married co-accused Myron in April 2023, and within three months of their marriage, Myron travelled to Dubai and never returned. The learned Counsel submits that the applicant is not a beneficiary of the invested amounts, and the applicant's properties and accounts have already been seized. Nothing remains to be recovered from the applicant. The applicant is ready to cooperate with the investigation. In these circumstances, the applicant's custodial interrogation is not necessary.

4. Mr CD Mali, the learned Additional Public Prosecutor representing the respondent/ State, argues that the applicant is the business partner of the co-accused and formed a company and a partnership, namely, DMA Designing New World Ltd and M/s. Prospect Reality. He contends that the applicant received over Rs.60,00,000/- from co-accused Myron. The applicant and co-accused have used the proceeds to purchase gold and properties in Mumbai, Goa and foreign countries. The learned APP submits that the applicant has criminal antecedents, and the EOW, Goa, is investigating similar offences registered against her. The applicant has not cooperated with the investigation, and her custody is necessitated to ascertain the facets of the crime, including tracing the money trail and the transactions of the aforesaid entities.

5. It is a settled position in law that the power to grant anticipatory bail is extraordinary. While it has been acknowledged in many instances that regular bail is considered a general rule, the same analogy cannot be applied to anticipatory bail. The decision to grant anticipatory bail must be exercised with careful and prudent discretion by the Court, considering each case's specific circumstances. A

straight jacket formula cannot be applied. While exercising this power, the Court must exercise caution, as granting protection in serious cases could potentially lead to a miscarriage of justice or hinder the investigation by allowing tampering or destruction of evidence. A profitable reference in this regard can be made to the decision of the Hon'ble Supreme Court in ***Shrikant Upadhyay & Ors. v. State of Bihar & Anr.***[1]

6. After reviewing the records, it appears that the co-accused, Myron and Sunita, enticed investors to invest sums on the assurance that the investments would be managed by their business partner, the applicant, who worked with the HDFC Bank in Goa. The co-accused and the applicant are the directors and partners of DMA Designing New World Ltd and M/s. Prospect Reality, respectively, from whose accounts the sums were deposited and routed. A significant amount, over Rs.60,00,000/-, was transferred from the co-accused to the applicant. These proceeds were invested in gold and real estate. The offence seems to have been meticulously planned, and the ongoing investigation aims to uncover these aspects. Moreover, the EOW, Goa, is investigating similar offences earlier registered against the applicant, and the applicant's

1 2024 SCC OnLine SC 282.

husband, co-accused Mayron, has absconded. Even though the applicant may not have enticed the investors directly, she appears to be a beneficiary of the monies, deeming her custody essential. Considering these circumstances, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

[RN Laddha, J.]