IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2104 OF 2024

1. Poonam Kambale
2. Hussain Shmed R. Khan ...Applicants

Versus

The State of Maharashtra ...Respondent

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- Mr. Siddiqui Mohammed Arif, Mr. Farheen Saeeikh, Noman Khan and Mr. Siraj Ansari, for Applicants.
- Mr. R.M. Pethe, APP for Respondent.
- Mr. V.J. Pisal, API, Khandeswar Police Station.

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CORAM : MANISH PITALE, J.

DATE : 19th August, 2024.

P. C. :

1. Heard learned counsel for the applicants and learned APP for the State.

2. The applicants are apprehending arrest in connection with First Information Report No.0064 of 2024 dated 09.03.2024, registered at Police Station Khandeswar, Navi Mumbai, for offence under Section 420 read with Section 34 of the Indian Penal Code (IPC).

3. The allegation of the informant is that under the allurement of providing job of loader at the airport, the applicants took substantive amounts of money, totaling to an amount of ₹ 1,05,000/- from the informant. Thereafter, no such job was forthcoming and therefore, the offence of cheating

has been committed.

4. The learned counsel for the applicants submits that even if bank account statements are taken into consideration, it becomes clear that before registration of the FIR itself, amount of ₹ 30,000/- was returned to the informant and therefore, the intention of the applicants about returning the money are clear. In such a situation, merely because the applicants could not arrange for the job, cannot a ground to proceed on the basis that from the inception the applicants had the intention to cheat the informant.

5. The learned APP for the state relies upon investigation papers that are produced for the perusal of this Court. He submits that other than the transfer of amounts between the informant and the applicants, the bank account statements indicate amounts being transferred by others and that further investigation is being made in that regard.

6. Reliance is placed on the statement of a witness, who has clearly stated about the involvement of both the applicants. The aforesaid statement reveals the *modus operandi* of the applicants.

7. This Court has perused the statement leading to registration of the FIR. The allegations made therein indeed *prima facie* make out the ingredients of offence under Section 420 of the IPC. It is not even the case of

the applicants that they were able to arrange for any job for the informant. Merely because some amount appears to have been given by the applicants to the informant cannot lead to a positive conclusion in their favour. In any case, the FIR was registered as far back as on 09.03.2024 and throughout the applicants have been indicating that they would be returning further amounts, but no concrete steps in that regard have been taken till date. Even now a request is made for granting time to return the amounts to the informant.

8. In any case, the offer to return the amounts indicates the involvement of the applicants in the present case.

9. The statement of the aforesaid witness, upon which the learned APP has placed reliance, does indicate involvement of both the applicants in making promises to the informant about providing a job. The aforesaid witness has stated that there was no permanent job available and only temporary engagements could perhaps be expected, which were also not arranged by the applicants.

10. In view of the above, no case is made out for granting anticipatory bail. The application is dismissed.

(MANISH PITALE, J.)