IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3117 OF 2024

Shweta Shah ... Applicant
Versus
The State of Maharashtra ... Respondent

******

Mr. BhaveshParmar a/w Mr. Rahul Gaikwad, Ms. Reshma Nair, Mr. Aman Jhawar and Mr. Aqueel Patel i/by Gravitas Legal for the Applicant.
Mr. Sagar R. Agarkar, APP for Respondent-State.

******

CORAM: MANISH PITALE, J.
DATE : 25th NOVEMBER 2024

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0052 of 2024 dated 14th March 2024 registered at Palghar Police Station, Dist. Palghar, for offences under Sections 420 and 506 read with 34 of the Indian Penal Code, 1860 (IPC).

3. At the outset, the learned APP submitted that co-accused person i.e. Ninad Dilip Rane had filed anticipatory bail application before this Court and on 19th August 2024, it was dismissed as withdrawn, when such a permission to withdraw the application was sought on behalf of the applicant as this Court was inclined to dismiss the application. It is further brought to the notice of this

Court that this very applicant i.e. Shweta Shah had filed earlier Anticipatory Bail Application No. 2357 of 2024 before this Court, which was withdrawn on a specific statement made by the learned counsel for the applicant on instructions. At that point in time also, it was pointed out that the anticipatory bail application of the co-accused was withdrawn, when this Court was inclined to dismiss the same. On this basis, it is submitted that this Court may not entertain the present application.

4. On the other hand, the learned counsel for the applicant submitted that the said objection was baseless, for the reason that in paragraph 4 of the order dated 6th September 2024, passed by this Court in the earlier Anticipatory Bail Application of the applicant, it was specifically recorded that the withdrawal of the application was sought at the outset, without making any submissions on merits. Therefore, the applicant has approached this Court again. It was sought to be indicated that the earlier anticipatory bail application was not properly structured and in that light, it was withdrawn with the intention to file afresh, in a comprehensive manner.

5. Although, order dated 6th September 2024 does not indicate any such intention on the part of the applicant to file a fresh comprehensive anticipatory bail application and liberty was not even granted for the same, this Court has taken up the present application for consideration, for the reason that the anticipatory bail application filed by this applicant before the Sessions Court

was dismissed without any discussion on merits. It was only observed that the Investigating Agency i.e. the Economic Offence Wing, Palghar (EOW) was bound to follow the notification issued by this Court in the light of the judgment of the Supreme Court in the case of ***Md. Asfak Alam v/s. The State of Jharkhand & Anr., 2023 SCC OnLine SC 892***.

6. The learned counsel for the applicant submitted on merits that in the present case, a bare perusal of the statement, leading to registration of the FIR, will show that the thrust of the allegations is against the co-accused person, who is alleged to have induced and allured the informant into parting with substantial amounts of money on the pretext of providing handsome returns and also on the ground that substantially discounted prices would be made available for various valuable commodities. It is submitted that reference to the applicant is found only in respect of two alleged cash transactions and even with regard to the digital transactions, reference is made only in respect of 3 such transactions, the total amount coming to a minuscule figure as compared to the allegations made in totality.

7. It is submitted that in these circumstances, when the applicant is ready to cooperate with the investigation and there is nothing to show that notice under Section 41A of the Code of Criminal Procedure, 1973 (Cr.P.C.) is ever served on the applicant, a clear case for granting anticipatory bail is made out. It was also indicated that the informant in the present case is an accused in

another FIR and that could perhaps have triggered the informant to have the present FIR registered.

8. On the other hand, the learned APP relied upon the investigation papers that were produced for perusal of this Court. It was submitted that the amounts mentioned in the statement of the informant, leading to registration of the FIR, can be said to be only the tip of the iceberg as numerous persons were duped in such a manner, relying on statements of witnesses recorded during the course of investigation, which indicated that the applicant was not only beneficiary of amounts transferred by such innocent persons, but she had played an active role along with the co-accused person in inducing and alluring such investors. On this basis, it is submitted that a strong *prima facie* case is made out against the applicant and this Court may not entertain the present application, even on merits.

9. The rival submissions have been considered in the backdrop of the statement of the informant, as also the material that has been unearthed during the course of investigation. It is settled law that an FIR as also, the statement of the informant, leading to registration of the FIR, need not be an encyclopedia and that it merely triggers the criminal process for detailed investigation into the matter.

10. A perusal of the investigation papers made available to this Court shows that during the course of investigation, the role of

the applicant has come to light, as numerous investors have given statements to the Investigating Agency with regard to the manner in which the applicant along with the co-accused person induced and allured the investors (witnesses) and substantial amounts of money also came to the applicant. In such a situation, where the investigation has led to *prima facie* substantial material being revealed, the contention raised on behalf of the applicant that her role can be said to be minuscule, cannot be accepted.

11. It is not as if the applicant can claim that while small portions of amounts might have come to her share, but she had no role in duping the investors as the thrust of the allegations in the statement of the informant pertained to the role of the co-accused person.

12. Having considered the investigation papers, this Court finds substance in the contention raised by the learned APP that this is not a case where discretion can be exercised by this Court to grant relief to the applicant, at this stage.

13. The material brought to the notice of this Court leads to the conclusion that the applicant has failed to make out a case for granting anticipatory bail.

14. At the fag end of the arguments, it was sought to be indicated that if the amounts allegedly received by the applicant from various investors are revealed, she could make an endeavor

to voluntarily deposit the same. The said offer cannot be the basis to consider the present application favourably. Therefore, the application deserves to be dismissed.

15. Accordingly, the application is dismissed.

MANISH PITALE, J.