IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3174 OF 2024

1. Pawan Kumar
2. Usha Kumari ... Applicants

Versus

The State of Maharashtra ... Respondent

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Adv. Jasmin Purani a/w Rahul Agarwal and Reeti Upadhyay i/by Agarwal & Dhanuka Legal for the Applicants.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Mr. Ganesh Jadhav, API, Kharghar Police Station, Navi Mumbai.

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CORAM: MANISH PITALE, J.
DATE : 28th NOVEMBER 2024

P.C. :

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

2. The applicants are apprehending arrest in connection with FIR No. 0049 of 2024 dated 16th February 2024 registered at Kharghar Police Station, Dist. Navi Mumbai, for offences under Sections 406 and 420 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The informant approached the Police raising a grievance that the applicants had duped him, as they took huge amount of about Rs.1 crore from him and thereafter, refused to return the same. The cheques issued by the applicants were dishonoured, in respect

of which proceedings under Section 138 of the Negotiable Instruments Act, 1881 have been initiated. It was stated that a power of attorney was executed by the applicant No.1 in favour of the informant, in respect of a particular room, giving an impression that since the applicants had failed to return the amount, the informant could deal with and enjoy the said immovable property. It was later found that there was outstanding loan on the said immovable property. Due to default, the concerned financial institution had initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. On this basis, it is claimed that the applicants had cheated the informant.

4. The learned counsel for the applicants pointed out that they had first approached the Police in August 2023 itself, making a grievance about the manner in which the informant and his associates were blackmailing the applicant No.1 and in the process, they had misused certain signed blank papers to create documents in respect of the immovable property. It was submitted that in the backdrop of such a complaint lodged prior to the registration of the FIR, the Sessions Court ought to have granted relief to the applicants. It is submitted that the applicants are ready to cooperate with the investigation.

5. On the other hand, the learned APP submits that ingredients of the offences registered against the applicants are clearly made out on the basis of the statement of the informant. It is submitted

that the applicants did not appear before the Investigating Officer and therefore, no indulgence may be shown.

6. While keeping the present application pending, this Court is inclined to grant interim relief in favour of the applicants, for the following reasons :

(a) Even according to the informant, the amounts that were transferred to the applicants from time to time, totaling to about Rs.1 crore in the year 2020 were handed over in cash.

(b) The subject FIR was registered on 16th February 2024, but prior thereto, the applicant No.1 had specifically submitted complaint before the very same Police Station, as also the Commissioner of Police on 21st August 2023 itself, alleging that the informant and his associates have been blackmailing the applicant No.1. It was stated that the applicant No.1 was apprehensive that the informant and his associates may inform his wife about an alleged extramarital affair and in that backdrop, certain blank papers were also got signed from the applicant No.1. The aforesaid complaint being submitted by the applicant No.1 prior in point in time, is a factor that needs to be taken into consideration.

(c) The statement of the informant in the FIR that he would be satisfied if the amount is returned to him, indicates that this is essentially a dispute regarding amount claimed by the informant as being payable by the applicants. As noted hereinabove, the huge amount having been transferred by cash in favour of the applicants itself, *prima facie* raise some doubt about the involvement of the applicants.

(d) The applicants have undertaken before this Court to appear before the Investigating Officer and to cooperate with the investigation.

7. In view of the above, there shall be interim order in the following terms :

(a) Till the next date, in the event the applicants are arrested in connection with FIR No. 0049 of 2024 dated 16th February 2024 registered at Kharghar Police Station, Dist. Navi Mumbai, they shall be released on bail on furnishing PR Bond of Rs.50,000/- each and one or two sureties in the like amount.

(b) The applicants shall remain present before the Investigating Officer on 30th November 2024 and 2nd December 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.

(c) The applicants shall cooperate with the investigation, including giving their contact numbers and addresses of New Delhi.

(d) The applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case.

8. In the event, the applicants violate any of the aforesaid conditions, the order passed today would be recalled.

9. List this application for further consideration on 7th January 2025 (High on Board).

MANISH PITALE, J.