**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 3267 OF 2024**

Manoj Raosaheb Alpe ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. Vivek Salunke a/w Saba Anjum i/by Anuj Tiwari for Applicant.
Mr. Sagar R. Agarkar, APP for Respondent-State.

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**CORAM: MANISH PITALE, J.**
**DATE : 6th DECEMBER 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. 0268 of 2024 dated 1st November 2024 registered at Gangapur Police Station, Nashik, for offences under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. The informant in the statement, leading to registration of the FIR, has stated that the applicant, who lives in the neighbourhood and who is known to the informant had proposed in the year 2021 about investment in gold and silver bonds for attractive returns. The informant has given details of the investments made from time to time on the inducement given by the applicant. It is stated that while initially some amount was

returned, thereafter the applicant failed to return the amounts and total amount invested by the informant is more than Rs.10 lakhs. Details of investments made by the brother of the informant are also given and it is stated that when the informant came to know that a third person was also duped in a similar manner, he approached the Police for registration of the FIR.

4. The learned counsel for the applicant has submitted that even if the contents of the statement of the informant are taken into account, this can be said to be a civil liability and there is no indication of dishonest intention from the inception. Therefore, ingredients of the offences of cheating are not made out. It is further submitted that when the basic ingredient is missing and the FIR has been registered after a delay of about 1 year, the present application can be allowed.

5. On the other hand, the learned APP submits that the informant has clearly stated the background in which he placed faith in the statements made by the applicant and that he was allured to invest substantial amounts, thereby showing that the ingredients of the offences are clearly made out. It is submitted that the applicant cannot claim that there is civil liability in the present case and therefore, no indulgence may be shown.

6. Upon perusing the statement of the informant that led to registration of the FIR, this Court is convinced that allegations pertaining to misuse of faith reposed by the informant in the

applicant, are sufficiently made out. The informant himself has stated about the number of years of acquaintance and neighbourhood of the applicant and the informant. It is specifically stated that in this backdrop, by placing faith on the promises given by the applicant, the informant was constrained to invest huge amounts along with his brother.

7. The fact that some amount was initially returned to the informant, cannot inure to the benefit of the applicant because in such cases, it is often noticed that in order to win the confidence of innocent investors, initially some amounts are returned and thereafter, the accused persons do not bother to keep their word. The fact that a third person, other than the informant and his brother, also invested huge amounts and *prima facie* appears to have been duped, it cannot be said that dishonest intention from the inception is not even *prima facie* made out against the applicant.

8. In view of the above, this Court finds no merits in the application and accordingly, it is dismissed.



**MANISH PITALE, J.**