

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.319 OF 2015

Mahiboob Kutbuddin Shaikh and Another	... Applicants
vs.	
The State of Maharashtra	... Respondent

Mrs. Manisha Devkar, for the Applicants.
Mr. D.P Adsule, APP for Respondent – State.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JUNE 15, 2015

P.C.:

. Application is moved for anticipatory bail as the applicants/accused who are the original accused Nos. 3 and 2 are apprehending arrest in the crime registered with Ganganbawada police station, Kolhapur for the offences punishable under Sections 420, 406 and 423 of the Indian Penal Code.

2. It is the case of the prosecution that the complainant Atul Lingam has agreed to sale land for Rs. 75 lacs to the accused in the year 2010. Applicant/accused No. 1 gave Rs. 4 lacs towards the earnest money and thereafter on 15th March, 2013 a Conveyance Deed was executed between the complainant, his father and accused No. 1. The land was mortgaged with IDBI bank. The accused furnished documents to the bank.

However, those documents were found false. At the time of Conveyance Deed, accused No. 1 did not pay anything on the pretext that he forgot about the cheques of IDBI bank and told that he would be handing over those cheques after reaching to Kolhapur. The family of the accused and the family of the complainant having very good relations and therefore the complainant believed him. However, since then co-accused No. 1 avoided to pay. In all he issued 12 cheques in favour of the complainant. Out of the said cheques one was signed by the father of the applicant i.e. present accused No. 1. Present accused No. 2 Anisa Shaikh is wife of accused No. 1. She is shown as a Director of the company. All the cheques were bounced and documents are also false. It is alleged that accused No. 1 had submitted some forged documents to IDBI bank in order to get loan from Catholic Syrian Bank Limited. Till today the amount of Rs. 30 lacs is due and payable to the complainant. Hence, a private complaint was filed before the learned Magistrate and pursuant to the direction given under Section 156(3) of Code of Criminal Procedure, the first information report was lodged and the investigation is carried out.

3. The learned counsel for the applicants/accused has prayed for pre arrest bail as accused No. 2 is the wife and accused No. 1 is the father and they have not played any role in the transaction of the said land and production of forged documents.

4. The learned prosecutor opposed bail application.
5. On perusal of the documents and complaint filed before the Magistrate *prima facie* the role attributed to accused Nos. 1 and 2 is not that much incriminating. Therefore, protection can be granted under Section 438 of Criminal Procedure Code
6. Hence, I grant anticipatory bail as under:
 - a) In the event of arrest, the applicants/accused be enlarged on bail on furnishing P. R. Bond in the sum of Rs.20,000/- (Twenty Thousand) each with one or two solvent surety/s in the like amount;
 - b) The applicants/accused shall attend Ganganbawada police station, Kolhapur on 23rd and 30th June, 2015 in between 10.00 am to 12.00 noon.
 - c) They shall cooperate with the investigating officer.
 - d) They are directed to furnish all the necessary documents which are required by the police.
7. Anticipatory bail application is disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)