

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 708 OF 2015

1. Mr. Ashraf Moiuddin Shaikh @ Malbari
2. Parvin Ashraf Shaikh
3. Abdul Wahid Rehmat Ali Shaikh

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Ms. Mallika Ingale i/b Mr. Virendra Dubey for Applicant
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : AUGUST 12, 2015.

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein are apprehending their arrest in crime no. 75 of 2015 registered at Nehru Nagar Police Station for offence punishable under sections 406, 420 r/w 34 of Indian Penal Code.

2) At the outset, learned counsel for the applicant submits that she would not press into service application of applicant no. 1 and hence, application filed by applicant no. 1 stands dismissed as withdrawn. Applicant no. 3 has been arrested and the application of applicant no. 3 has become infructuous and disposed of accordingly.

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3) It is the case of prosecution that on 21/03/2015, complainant Ayashabi Khan lodged a report at the police station that she was introduced to the husband of present applicant by Abdul Wahid. She was made to understand that she could purchase a room situated at Chal Navrebag, Kurla. According to her, applicant no. 2 was also instrumental in introducing her to the said scheme and that she had been induced to purchase the said room. She was never informed that the husband of the applicant does not have a title to that room. In fact, that one Shabana was the title holder. That the complainant was not aware all the transactions between Shabana and the husband of the applicant. That she had paid Rs. 3 lacs by cash. The transactions was to be executed for a consideration of Rs. 26,00,000/-. That since complainant had not paid Rs. 23 lacs. The deal had not struck. According to complainant, she has paid Rs. 7 lacs to the husband of applicant.

4) Upon perusal of papers of investigation, it prima facie does not appear that present applicant no. 2 had any active role in the said transaction. In view of this, no case for custodial interrogation is made out. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is partly allowed.
- (ii) In the event of arrest, applicants be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- each with one or two sureties in the like amount.
- (iii) Applicants shall report to concerned police station as and when called.
- (iv) Application of applicant no. 1 stands dismissed as withdrawn.
- (v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)