

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 970 OF 2015

Santosh Chandra Gupta. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 972 OF 2015

1 Ravindra Gunde s/o. Ganpat Gunde.
2 Tangraj s/o Perumal. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Nitesh Acharya i/b. Ms. Anjali Awasthi, advocate for Applicant.

Ms. Rutuja Ambekar, APP for State in ABA 970/15.

Ms. A.T. Jhaveri, APP for State in ABA 972/15.

Mr. Naresh Sawant, PSI, Wadala T.T. Police Station.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 9, 2015

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused papers.

2 These are the applications under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in C.R. No. 287 of 2015 registered on 23/6/2015 at Wadala T.T. Police Station for offence punishable under Section 465, 467, 468, 471, 420 read with Section 34 of the Indian Penal Code.

3 The applicant in Criminal ABA No. 970 of 2015 happens to be an advocate by profession. The case of the prosecution is that on 23/4/2015 one Pramod Dhamankar received notice issued by Bombay City Civil Court in City Civil Court Case No. 1062 of 2015 filed by Umesh Chari against him and summons were served upon him on 23/4/2015. According to the complainant, after receipt of summons, he has realised that advocate Umesh Chari has fabricated memorandum of understanding showing therein that the shop was purchased from him for consideration of Rs. 10 Lakhs. The present applicant happens to be lawyer who had drafted and explained the memorandum of understanding. Since the said memorandum of

understanding was a fabricated document, the applicant is being prosecuted for the same. The applicant herein had been served upon with a notice under Section 41 of the Code of Criminal Procedure, 1973. Notice was served upon him on 1st July, 2015 and he was directed to remain present on 2nd July, 2015 at 9 a.m. It appears that the applicant had not gone to the police station at or about 9 a.m. and therefore, the police had gone to his house. It is in this premises, the applicant is apprehending arrest.

4 Perused the memorandum of understanding. It appears that the memorandum of understanding was explained and drafted by the present applicant.

5 The learned Counsel for the applicant submits that being a legal practitioner, he had acted upon the instructions of the litigant and had drafted the said memorandum of understanding without verifying the factual aspects. According to the learned Counsel for the applicant, the said memorandum of understanding was drafted by the

applicant at the behest of the Advocate Umesh Chari. The learned Counsel submits that the applicant was not expected to verify as to whether the parties had genuinely wanted to execute memorandum of understanding. He had drafted the same.

6 Upon perusal of the papers and after hearing submissions of the learned Counsel, this Court is of the opinion that the applicant deserves grant of pre-arrest bail.

7 In so far applicants in ABA 972/15 is concerned, upon perusal of the memorandum of understanding, it appears that the present applicants have acted as witnesses to the receipt issued by the complainant showing therein that the complainant has received Rs. 10 Lakhs from advocate Umesh Chari. Upon perusal of the statement of the clerk working with Umesh Chari, it appears that the signature on the said stamp is also forged. Upon perusal of the statement of the co-accused, it appears that co-accused was made to sign upon the receipt. The learned Counsel for the applicants re-affirms that they

have signed as witnesses. The applicants deserves pre-arrest bail by virtue of doctrine of parity.

8 The above observations are prima facie in nature. The same shall not be considered while deciding application for discharge or application for quashing of FIR or at the time of trial. The learned trial Court shall decide the matter uninfluenced by the observations made by this Court.

9 Hence following order is passed :

ORDER

- (i) Both the applications are allowed.
- (ii) In the event of arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each and one or two sureties in the like amount.

(iii) The applicants shall report to the concerned police station on 15th, 16th, 17th, 20th, 21st July, 2015 between 10 a.m. to 1 p.m. and cooperate with the investigating agency to the best of their capacity.

10 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)