

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1214 OF 2015

1. Weg Shrikant Prabhu .Applicants
2. Shrikant Suryaji Prabhu

v/s.

The State of Maharashtra .Respondents
& anr.

Mr.S.V.Marwadi i/b. Mr.K.S.Garg, Advocate, for
the Applicants

Ms Veera Shinde, APP, for the Respondent No.1 –
State

Mr.Y. Bavkar, Advocate, for the Respondent No.2

CORAM : REVATI MOHITE DERE, J.

DATE : 07.10.2015

P.C.

. Heard learned counsel for the
applicants, learned APP for the respondent No.1
– State and the learned counsel for the
respondent No.2.

2. Vide order dated 20th August, 2015, this
Court while granting ad-interim protection to
the applicants had in para 3 observed as

under :-

"3. Learned Counsel for the Applicants on instructions of the father of one of the applicant, who is present in Court states that out of the sum of Rs.34,00,000/- the applicants have already paid a sum of Rs.11,00,000/- to the complainant. He states on instructions that as far as the balance amount of Rs.24,00,000/- is concerned, the applicants are ready to pay the aforesaid amount to the complainant."

In view of the aforesaid statement, applicants were granted ad-interim protection and leave to amend was granted to implead the complainant as party respondent No.2 and notice was issued to the added respondent.

3. Vide order dated 05.10.2015, a statement was made by the applicant No.1, who was present in Court, that a demand draft for an amount of Rs.15,00,000/- will be drawn in the name of the Registrar, High Court, Bombay by

06.10.2015 and accordingly, the matter was kept today. It was recorded in the said order dated 05th October, 2015 as under :-

"1. Learned Counsel for the applicants states on the instructions of the applicant No. 1, who is present in Court that the applicant No. 2, who is the father of the applicant No. 1, has suffered a heart attack.

2. It appears that despite the statement made by the applicant No. 2 on 20th August, 2015 that he would pay a sum of Rs. 34 lakhs, no amount till date is forthcoming. The applicant No. 1, who is present in Court, has tendered a document of the Bank of India dated 5th October, 2015 showing a sum of Rs. 20,05,175.98 as on 5th October, 2015 in the name of M/s. Anand Ashram Agro, of which, both the applicants are partners.

3. Learned Counsel for the intervener submits that this is the modus operandi adopted by the applicants time and again. He submits that the applicants have been giving assurances and have been submitting forged and fabricated documents and have been evading making payments from time to time.

4. Learned A.P.P has also made a grievance that during the pendency of this application, after the applicants were protected by an interim order, several notices were issued to applicant Nos. 1 and 2, however, both the applicants failed to appear before the concerned Investigating Officer and as such, have not cooperated with the investigation.

5. Learned Counsel for the applicants, on the instructions of the applicant No. 1, who is present in Court, assures that a demand draft for an amount of Rs. 15 lakhs will be drawn in the name of the Registrar, High Court, Bombay, by tomorrow i.e. by 6th October, 2015.

6. In view of the statement made by the applicant, stand over to 7th October, 2015 by way of last chance to test the bonafides of the applicants. To be listed first on board.

7. It is made clear that if the said amount is not deposited, the interim anticipatory bail granted, shall stand vacated.

8. The document tendered across the bar issued by the Bank of India, is handed over to the Investigating Officer by the learned A.P.P, who shall verify

the genuineness of the said document."

4. Infact, learned counsel for the intervenor had raised a grievance on 5th October, 2015 with regard to the conduct of the applicants and had submitted that this modus operandi i.e. making false statements, submitting forged documents has been adopted by the applicants time and again. Infact, even the learned APP had made a grievance that both the applicants had not attended the concerned police station on a single date.

5. The matter was kept today for compliance of the order dated 05.10.2015. When the matter was called at 11.00 a.m., Mr.Marwadi, learned counsel for the applicants requested for a keep back. Accordingly, the matter was kept at 1.00 p.m. When the matter was called out again, Mr. Marwadi states that neither of the

applicants have come. Considering what is recorded in the order dated 05.10.2015, if the applicant does not abide by his statement, the interim anticipatory bail granted, shall stand vacated. On the last date i.e. 05.10.2015, the applicant No.2, who was present in Court had tendered a document of the Bank of India dated 05.10.2015 showing a sum of Rs.20,05,175.98/- as on 05.10.2015 in the name of M/s. Anand Ashram Agro. He stated that both the applicants were partners of M/s.Anand Ashram Agro.

6. Learned APP states that the investigating officer has verified the said account and has found that the applicants have nothing to do with the said account which, stands in the name of M/s. Anand Ashram Agro. She relied on a letter dated 06.10.2015 issued by the Bank Of India which states that the account stands in the name of M/s. Anand Ashram

Agro and that the partners of the said M/s. Anand Ashram Agro are not the present applicants but Mr.Sadanand Suryaji Prabhu & (ii) Mr.Mohan Pandurang Prabhu. They have further stated that the applicants are not associated with the said account. The said letter is taken on record and marked as "X" for identification.

7. Considering the aforesaid, the applicants are not entitled to be granted any discretionary relief. Accordingly, the interim relief granted earlier stands vacated and the Application stands rejected.

(REVATI MOHITE DERE, J.)