

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

ANTICIPATORY BAIL APPLICATION NO.1281 OF 2015

Mr. Sampathlal Nainsukh Mutha & Ors. ... Applicants
Vs.
The State of Maharashtra ... Respondent

ALONGWITH
ANTICIPATORY BAIL APPLICATION NO.1291 OF 2015

Mrs. Hema Anil Fulfagar & Ors. ... Applicants
Vs.
The State of Maharashtra ... Respondents

Mr. Vikas Shivarkar, Adv. for Applicants.
Ms. Veena Shinde, APP for State.
Mr. A P Malale, P I of Shivaji Nagar, Police Station Pune.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 3rd December, 2015.

P.C. :

1. These applications for anticipatory bail are filed by the aforesaid applicants apprehending their arrest in Crime No.154 of 2015 registered with Shivaji Nagar Police Station, Pune for the offences punishable under Sections 420, 468, 471, 120(b) of IPC.

2. The learned counsel Mr. Shivarkar for the applicant has submitted that the applicants in ABA No.1281 of 2015 had availed loan from the complainant company by mortgaging certain property. The said applicants were desirous of selling the property. Accordingly

they had informed the complainant company in ABA No.1291 of 2015, pursuant to which the complainant company issued a letter dated 11th March, 2013 setting out conditions of foreclosure. He has further stated that the applicants have complied with the terms set out in the letter dated 11th March, 2013 and thereafter entered into a sale deed with the applicants in the ABA No. 1291 of 2015.

3. The learned counsel for the applicants further submitted that the allegations levelled in the complaint do not constitute the offence as alleged. He has further submitted that the dispute is of civil nature and that the presence of the applicant is not necessary for custodial interrogation.

4. The learned APP has submitted that the applicants had sold the property without informing the complainant company. She has submitted that the averments made in the complaint prima facie disclose the offence as alleged and therefore, the applicants are not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The records prima facie reveal that applicants in

ABA No.1281 of 2015 were the owners of Row Village, situated at Gultekdi, Tal. Haveli, Pune. The applicants had availed loan from the complainant company and as a security they had mortgaged the said row house. The applicants had published an advertisement on 20th February, 2013 expressing their desire to sell the said property. A perusal of the said advertisement reveals that the applicants had disclosed in the advertisement that the complainant company has interest in the said property which was proposed to be sold. The records also reveal that the applicant's had informed the complainant company that they proposed to sell the said property. By letter dated 11th March, 2013, the complainant company had informed, these applicants that the foreclosure amount was Rs.2,495,822.50. The said letter also sets out the other terms and conditions of the closure. The applicants have placed on record receipts in respect of the payment of the amount referred in the letter dated 11th March, 2013. Thus prima facie the records reveal that the applicant Nos.1, 2 and 3 had already paid amount quantified by the finance company in the letter dated 11th March, 2013 and thereafter they had entered into a sell transaction with the applicants in ABA No.1291 of 2015.

6. The records reveal that in the year 2013, the company had

approached Shivaji Nagar Police Station raises certain grievances against the applicant No.1 in ABA No.1291 of 2015. The Shivaji Nagar Police Station had inquired into the grievance and submitted the report that the dispute was purely of civil nature. The complainant has also filed summary Criminal Case No.471 of 2013, whereas the applicants in ABA No.1291 of 2015 have filed a civil suit against the complainant company for handing over the original title deeds. Whereas the complainant company has filed Execution Proceeding before the Civil Court at Pune.

7. The said facts prima facie indicate that the dispute is of civil nature. The nature of the allegations levelled against the applicants do not warrant custodial interrogation. The applicants are the permanent residents of Pune district and there is no possibility of applicants absconding or fleeing away from justice.

8. Under the circumstances and in view of the discussion supra, the application is allowed on following terms.

1. In the event of arrest of the applicants in Crime No.154 of 2015 registered with Shivaji Nagar Police Station, Pune, the applicants shall be released on bail bond of Rs.20,000/(Rupees

Twenty Thousand Only) each with one or two sureties in the like amount to the satisfaction of the learned Judicial Magistrate, First Class, Shivaji Nagar, Pune.

2. The applicants shall report to the investigating officer for 7 days between 10 am to 1 pm and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicants shall not tamper with the evidence or influenced complainant and witnesses in any manner.
4. The applicants shall not leave Shivaji Nagar, Pune District, till filing of the chargesheet without prior permission of JMFC, Shivaji Nagar, Pune.

(ANUJA PRABHUDESSAI, J.)