

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1894 OF 2015

1.Vikesh Kamlesh Choithramani
2.Vicky Shyamlal Artwani ..Applicants

v/s.

The State of Maharashtra. ..Respondent

Mr. S. K. Kotwal i/b. Mr. Manoj Mohite for the applicants.
Mr. Y. M. Nakhawa, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : DECEMBER 17, 2015.

P.C.

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in C.R.No.I-167/2015 registered with NRI Police Station, District Navi Mumbai, for the offences punishable under Sections 420, 406, 465, 466, 467, 468, 471, 198 and 120-B of the Indian Penal Code.

2. Heard Mr. S. K. Kotwal, learned Counsel for the applicants, and the learned APP for the State.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Mohanprakash Kanaram Choudhary. The allegations made in the FIR in brief are that one Dattatray Dharma Thakur had sold his leasehold rights to the complainant vide MOU dated July'2014 and that the complainant had paid total sum of Rs.50 lakhs to the said land owner. It is alleged that the land owner and the applicants herein entered into a conspiracy and executed another

MOU dated September'2009 whereby the said leasehold right were transferred in favour of the applicants herein. The complainant had alleged that the land owner had transferred the said rights in favour of the applicant despite knowing the fact that the leasehold right was already transferred in his favour and despite receiving Rs.50 lakhs towards part payment of the said leasehold rights. The complainant therefore alleged that the land owner and the applicants herein had cheated him to the tune of Rs.50 lakhs. Based on the aforesaid allegations crime came to be registered.

4. The records prima facie reveal that the applicants herein had filed a Special Civil Suit No.133/2015 before the Court of Civil Judge, Senior Division, Panvel against the land owner. The parties to the said Civil Suit had entered into consent terms and suit was decreed by judgment and order dated 21/4/2015. The record further reveals that the complainant/first informant has already filed Civil Suit NO.389/2015 before Civil Judge, Senior Division, Panvel for declaring that the said MOU between the applicants herein and the landlord as null and void.

5. It is thus evident that the civil suit between the parties is already pending before the Civil Court. The nature of allegations levelled against the applicant do not justify custodial interrogation. The Applicants are the permanent residents of Ulhasnagar and there is no possibility of their absconding. The applicants are therefore entitled for bail. Hence, the anticipatory bail application is granted on the following terms.

- i) In the event of the arrest of the applicants in Crime No.I-167/2015 registered with NRI Police Station, the applicants be

released on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand Only) each with one solvent surety each in the like amount, to the satisfaction of the learned JMFC, Panvel.

ii) The applicants shall report to the Investigating Officer, initially for a period of 4 days from 10 a.m. to 1 p.m., and thereafter as and when required by the Investigating Officer for the purpose of interrogation.

iii) The applicants shall not leave Thane and Raigad Districts till filing of the charge-sheet without prior permission of learned JMFC, Panvel.

(ANUJA PRABHUDESSAI, J.)