

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 275 OF 2016

Shyam Sunder Ramkishor Mishra and anr.Applicants

V/s.

The State of Maharashtra & anr.Respondents

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Mr. P.P. Vare, Advocate for the applicant.

Ms. Sharmila Kaushik, APP for respondent, State.

Mr. R.D. Kumar a/w. Mr. Vinay Kumar, Advocate for respondent no.2.

PSI, Somnath Deshmane, Kala Chowky Police Station present.

CORAM :- N. W. SAMBRE, J.

DATED :- 5TH DECEMBER, 2016.

P.C. :-

1). On 12th February, 2016 both the applicants have accepted Rs.15,00,000/- from the complainant and have not honoured the commitment to handover the flat, hence were booked in Crime No.16 of 2016 for the offences punishable under Sections 406, 420, 120(B) read with Section 34 Indian Penal Code were

granted ad-interim protection. On 1st July, 2016 the applicants made a categorical statement before this Court, that without prejudice to their rights, they can deposit an amount of Rs.15,75,000/-. It is then claimed that Rs.4,00,000/- will be deposited within a period of one week and thereafter will give a schedule for depositing the balance amount.

2). The said Undertaking was not taken to its logical end. On 6th September, 2016 another statement was made that Rs.15,75,000/- to be paid to the complainant, will be deposited in Court on September 21, 2016.

3). The interim relief as such was continued from time to time including that of last chance ordered by this Court.

4). As the orders of this Court were taken for ride by the applicants by not honouring the Undertaking and enjoyed the protection, the learned APP invited attention of this Court to the very conduct of the applicant resulting into taking recourse to the State Amendment to Section 438 Indian Penal Code directing the applicant to remain present before this Court during hearing.

5). Today when the matter is heard on merits, both the applicants have taken somersault by stating that they are not in a position to deposit the amount of Rs.15,75,000/-.

6). The offence in question is based on the amount received by the accused persons by cheque, promise made of delivery of immovable property with title which is not honoured.

7). Looking to the above referred conduct of the applicants of trying to practise fraud also on this Court and their prima-facie involvement in the crime in question, in my opinion, no case for consideration is made out. Hence, the Anticipatory Bail Application is rejected.

(N.W. SAMBRE, J)