

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.681 OF 2016

Farida Ashfaque Ali

Ashan Ali Qureshi

... Applicant

vs.

The State of Maharashtra

... Respondent

Mr. Ashish Gaikwad a/w. Ms. Prerna Silimkar and Ms. Bhavana,
for the Applicant.

Mrs. P.P. Shinde, APP for Respondent – State.

Mr. N.A. Sawant (PSI), Wadala T.T. Police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **15th APRIL, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 420, 423, 466, 467, 468 and 471 read with 34 of the Indian Penal Code in C.R. No. 827 of 2014 registered with Wadala T. T. police station, Mumbai. The offence is registered at the instance of one Smt Ashiyabano Pawar.

2. It is the case of the prosecution that the complainant Ashiyabano and her husband wanted to buy a house and they came in contact with one Ashfaque Ali who is the husband of present

applicant/accused. He acquainted them with one Shabana Mohd Khan who is the investor of Room No. 204, Building No. A/4, New MHADA colony, Kokri Agar, Antop Hill, Wadala(E). The applicant/accused and her husband informed the complainant that they have purchased it from one Yashwant Pawar and showed the agreement. The applicant/accused and her husband also introduced the complainant with Yashwant Pawar who informed that MMRDA allotted the said premises in his name and showed one letter from MMRDA. Thereafter, the complainant paid Rs. 19,75,000/- to Ashfaque Ali in cash however to that effect agreement was prepared through lawyer. Then the applicant/accused and her husband handed over possession of the said room to the complainant. It is the case of the complainant that 15 days thereafter, in October, 2013 the officers from MMRDA came there for inquiry and they told the complainant that said room was not allotted to them and evicted the complainant and her family from the said room and sealed the room. On inquiry the complainant found that the said room was allotted to one Dhananjay Gupta. Thereafter, the complainant gave information to police and offence is registered against the applicant/accused and her husband.

3. The learned counsel for the applicant/accused submitted that the possession of the room was handed over to the complainant. They produced agreement. It is further submitted that husband of the applicant/accused was available and arrested for inquiry. Now he is released on bail. He further submitted the applicant/accused has attended police station since last 11 months. She has cooperated the police and therefore her custody is not required.

4. The learned prosecutor oppose the pre arrest bail. She relied on the statements of complainant and her husband Salim Pawar. She submitted that not a single rupee from Rs. 19,75,000/- was recovered till today.

5. Perused. The application for pre arrest bail is rejected by the Sessions Court on 31st March, 2016. Today is a first date. Police officer is present. The applicant/accused was granted interim pre arrest bail on 12th May, 2015 and she has attended police station on number of occasions. Police has not yet recorded statement of Dhananjay Gupta who is the first allottee. Considering these facts, in my view custody of the applicant/accused is not required. Hence, I

am inclined to grant pre arrest bail to the applicant/accused on following terms and conditions:

- a) In the event of arrest, the applicant/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount;
- b) The applicant shall not tamper with the evidence;
- c) The applicant shall not leave India without prior permission of the Court.
- d) The applicant shall cooperate with the Investigating Officer and shall attend concerned police station as and when required by the investigating officer.

(MRS.MRIDULA BHATKAR, J.)