

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
ANTICIPATORY BAIL APPLICATION NO.888 OF 2016**

1     Rajkumar Amarchand Chugh  
2     Jaideep Rajkumar Chugh,  
3     Mrs. Bhavana Rajkumar Chugh

Oshiwara, Andheri (West),  
Mumbai

.... Applicants/  
Accused

Vs.

The State of Maharashtra & Ors.  
At the instance of Oshiwara  
Police Station, Mumbai

.... Respondents  
(Complainant)

Mr. Shashikant Chaudhari i/by Maharashtra Law Associates,  
for the applicants.

Smt. N.S. Jain, APP for the State.

Mr. Sayed Ahmed for Intervenor

Mr. Sunil Yadav, Inspector, Oshiwara Police Station present.

Coram : N.W. SAMBRE, J.

Date : 16<sup>th</sup> December, 2016

P.C.

1            The applicants are seeking pre-arrest bail in C.R. No. 377 of 2015, registered with Oshiwara, Police Station for the offences punishable under Sections 406, 420 read with 34 Indian Penal Code.

2            The prosecution case in brief is that the present applicants are owners of certain land at Virar which they have

promised to sell to the complainant and accepted valuable consideration. It is then claimed that without executing any sale-deed in favour of the complainant, the applicants transferred the said property to third person. It is also claimed that neither the amount of consideration is refunded nor the sale-deed is executed. As such, committed crime in question i.e. cheating and criminal breach of trust.

3           While trying to make out the case for grant of pre-arrest bail, the learned counsel for the applicants submits that apart from the proceedings under Section 138 Negotiable Instruments Act initiated by the complainant against the applicants, which are pending independently before the competent court, an allegation which has resulted into the registration of the crime is based on contractual matter. He would then urge that the civil dispute is taken to the police station by giving colour of criminal proceedings for the purpose of recovery of the amount. It is also claimed that the M.O.U. does not bear the signatures of the applicants as could be gathered from the report of the handwriting expert. In the background, it is alleged that the custodial interrogation of the applicant is unwarranted.

4           The learned APP submits that there is sufficient material to connect the applicants to the crime in question. According to her the applicants are the owners of immovable

property located at Virar, which they have agreed to sell to the complainant at the cost of Rs.1,00,000/- per guntha and since the contract for sale of 100 gunthas was not honoured, the amount should have been returned back, which speaks of criminal intentions on the part of the present applicants. She submits for rejection of the application. The applicant is assisted by the learned counsel for the complainant.

5            Perused the investigation papers.

6            So far as the claim of applicant no.3, Mrs. Bhavana Rajkumar Chugh, aged about 55 years is concerned, in my opinion, there is hardly no any material on record to directly connect the said lady to the crime in question. She being a partner in the firm is found to be necessary for impleading her as an accused.

7            So far as the applicant nos.1 and 2 are concerned, there is sufficient material to infer that both these applicants have accepted the amount from the complainant towards the consideration for sale of the land and have neither executed the sale-deed nor returned the amount, which was paid through cheques. The applicants have transferred the land to third person.

8            The said intentions on the part of applicants nos.1 and 2, who happen to be the owners of the property speaks

voluminous about their criminal intentions and involvement in the crime. As such bail application against applicant nos. 1 and 2 stand rejected. So far as the claim of applicant no.3 is concerned, a women aged about 55 years old, hardly there is no any material to infer her prima facie involvement in the crime. Hence, in the event of arrest, she (applicant no.3) be released on bail on P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount.

9           The applicant no.3 to attend Oshiwara Police Station on 27<sup>th</sup> December, 2016 and 28<sup>th</sup> December, 2016 between 10.00 am. to 12.00 noon and thereafter as and when called.

10           The applicant no.3 not to tamper with the evidence and/ or influence the witnesses in any manner whatsoever.

11           At this stage, the learned counsel for the applicants seeks continuation of ad-interim protection in favour of applicant nos.1 and 2, which is objected by the learned APP. However, in the interest of justice, the interim protection against applicant nos. 1 and 2 is continued for a period of two weeks from today, as prayed.

(N.W. SAMBRE, J.)