

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1891 OF 2015

Mrs. Ramisa Akhtar Khan	...	Applicant
Vs.		
1. The State of Maharashtra		
2. Farzana Jaffar Memon	...	Respondents

CRIMINAL APPLICATION NO. 87 OF 2016

IN

ANTICIPATORY BAIL APPLICATION NO. 1891 OF 2015

Sultana Bano Abdul Aziz Shaikh & Ors.	...	Interveners
In the matter between		
Mrs. Ramisa Akhtar Khan	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

CRIMINAL APPLICATION NO. 140 OF 2016

IN

ANTICIPATORY BAIL APPLICATION NO. 1891 OF 2015

Abdul Samad A.A. Qureshi	...	Intervener
In the matter between		
Mrs. Ramisa Akhtar Khan	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Murtaza Najmi a/w. Mr. Sunderlal Ghajbiye, Mr. Ramesh Dogra,
Advocate for the applicant.

Mrs. P.P. Shinde, APP for the State.

Ms. N.M. V. Baig, Advocate for the Intervener in Appln. No. 87 of 2016.

Mr. A.S.A. Inayatali, Advocate for the Intervener in Appln. No. 140 of 2016.

Mr. S.A. Bagwan. P.I., Mumbra Police Station, Thane.

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

DATE: **12th April, 2016.**

P.C.:

This Application is moved for pre-bail by applicant/accused Ramisa

Akhtar Khan, as she is facing charges under sections 420, 406 r/w. 34 of the Indian Penal Code in C.R. No. I-735 of 2015 registered with Mumbra Police Station, Thane at the instance of Farzana Jaffar Memon on 2nd September, 2015.

2. It is the case of the complainant that she is working as an estate agent. She got acquainted with accused Abdul Samad Abdul Aziz Qureshi and builder Akhtar Anis Khan. They were having the business of construction. The complainant booked a flat no. 602 admeasuring 900 sq.ft. on 6th floor on 11th November, 2013 and paid Rs.7,50,000/-. She was told to occupy a flat admeasuring 400 sq.ft. temporarily, as the construction of 6th floor was not complete. But till today, though her flat no. 602 is complete, the builder/accused persons did not give her possession of the said room and, therefore, she gave complaint. It is the case of the complainant that her relatives who had also booked flats along with her in different tenements in said Asma Tower and paid the amount to the accused persons, were also cheated by the accused person by not giving possession of the respective tenements to them. The statement of those persons are recorded by the police. The applicant/accused Ramisa is a wife of builder accused Akhtar Anis Khan.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent and she has not committed any offence.

4. Learned APP while opposing the Anticipatory Bail Application has relied on the statement of Gajal Mohd. Siddiqi recorded on 7th September, 2015 wherein it is stated that she has booked one flat for Rs.11,25,000/- in Asma Tower building and has paid full consideration and two cheques amounting to Rs.4 lakhs, i.e., Rs. 1 lakh dated 14th December, 2012 and Rs.3 lakhs dated 21st December, 2012 to applicant/accused Ramisa and therefore, the prosecution is opposing this Anticipatory Bail Application.

5. On perusal of the FIR and statement of Gajal Siddiqi, it appears that the applicant/accused, who is wife of principal accused Akhtar Kahn, has prima facie not played any active role in this matter. There is no evidence to show that applicant/accused has promised the complainant or any other witnesses in respect of booking of flats. Under such circumstances, I am inclined to grant pre-arrest bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, the applicant/accused be enlarged on bail

on furnishing PR. Bond in a sum of Rs.25,000/- with one or two sureties in the like amount;

- (iii) The applicant shall not pressurize the complainant and other witnesses.
- (iv) The applicant shall not indulge into any criminal activity much less the offence of cheating, while on bail;
- (v) The applicant shall cooperate the Investigating officer and shall attend the concerned police station as and when called by the police.

6. Criminal Application No. 140 of 2016 is filed by Abdul Samad Abdul Aniz Qureshi, who is one of the accused person and he wants direct inquiry under section 340 of the Cr. P.C. against complainant Farzana Jaffar Memon and applicant/accused Ramisa Akhtar Khan for producing fake and bogus documents, i.e., MOU between Abdul Samad Abdul Qureshi and Akhtar Khan. Criminal Application No. 87 of 2016 is filed by Sultana Bano Abdul Aziz Shaikh, as she has lodged a complaint against Ramisa Khan and her husband Akhtar Anis Khan with Mumbra Police Station in C.R. No. I-735 of 2015, i.e., same C.R. on 2nd September, 2015 that she has also paid some amounts.

7. These two Applications are dismissed, as these applicants are not the

complainant and the complainant Farzana Jaffer Memon, who is allowed to be party-respondent, is not present before the Court. Hence, the applicants are not allowed to intervene in this matter. It is to be noted that if more persons are cheated by the accused persons or applicant/accused, then it is necessary for the Investigating officer to lodge independent cases against the accused persons.

(MRIDULA BHATKAR, J.)