

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1906 OF 2015

Raman Narayan Sheth & Ors.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. Prakash Naik, Sr. Adv. i/b. C.G. Gavnekar, Adv. for the applicants.
Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 12th January, 2016.

P.C. :

1. At the outset Mr. Naik, the learned senior counsel has submitted that the applicant No.3 has expired during the pendency of this application. Hence he seeks leave to delete the name of the applicant No.3 from the cause title. Leave granted, amendment be carried out forthwith.

2. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.74 of 2015 registered at Goregaon Police Station, Mangaon for offences punishable under Section 406 read with 34 of the IPC.

3. The allegations against the applicants in brief are that they

are the members of the Mangaon Taluka Education Society and that during the year 2006 – 2007 they had committed certain irregularities and misappropriated an amount of the trust to the tune of Rs.1,95,33,781.33.

4. Mr. Naik, the learned Senior counsel for the applicants submitted that the FIR in respect of the offences allegedly committed in 2006 – 2007, has been lodged in the year 2015. He has further submitted that the Board of Trustees had already initiated proceedings before the Charity Commissioner in the year 2009 and the inquiry is still pending. He has further submitted that the present FIR is filed on the basis of the notice dated 17th June, 2009 under Section 38 of the Mumbai Public Trusts Act, 1950. He has submitted that considering the above facts the presence of the applicants for custodial interrogation is not required.

5. Mrs. Mulekar, the learned APP for the State submitted that the amount misappropriated is over crores of rupees and the presence of the applicants is required in the custody to recover the said amount.

6. I have perused the records and considered the submissions advanced by the learned counsels of the respective parties. The records prima facie reveal that the applicants herein are the members of the Mangaon Taluka Education Society. On 21st August, 2007 on Srinivas Bandu Bendkhale had filed a complaint before the Asstt. Charity Commissioner under Section 37 of the Mumbai Trusts Act, 1950 alleging that the trustees had committed irregularities. The inspector had deputed the Asstt. Charity Commissioner. He had submitted report recommending that an action initiated under Section 39 of the Act. It is submitted that the applicants had already submitted a reply under Section 34 of the Act and the enquiry is still in progress. The present FIR is lodged by one of the members based on the same notice dated 17th June, 2009 during the pendency of the inquiry. There is considerable delay in lodging the complaint. Hence in my considered view, the case would not justify custodial interrogation. Even otherwise the applicants are the permanent residents of Mumbai and Goregaon, Tal. Mangaon, Dist. Raigad and have roots in the society. There is no possibility of the applicants absconding.

7. Under the circumstance, the application is allowed on the following terms and conditions.

1. In the event of arrest of the applicants in Crime No.74 of 2015 registered at Goregaon Police Station, Mangaon, the applicants shall be released on bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one surety in the like amount to the satisfaction of the JMFC, Mangaon.
2. The applicants shall report to investigating officer for 7 days from 10 am to 1 pm. from the date of the receipt of the order or as and when called by the investigating officer for the purpose of the interrogation.

(ANUJA PRABHUDESSAI, J.)