

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1959 OF 2015

Dattatraya Dharma Thakur & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

.....

Mr. Mandar M. Goswami for the Applicants.

Mr. D.P. Adsul, APP for the Respondent -State.

Mr. V.M. Mhatre, Police Naik, N.R.I., Police Station, Navi Mumbai.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 8th JANUARY, 2016.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicants in apprehension of their arrest in C.R. No.I 167 of 2015 registered with N.R.I. Police Station, Navi Mumbai, for the offences punishable under sections 420, 406, 465, 466, 467, 468, 471, 198 and 120B of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by one Mohanprakash Kanaram Choudhary. The allegations made in the FIR in brief are that the Applicant No.1-Dattatraya Dharma Thakur had sold his leasehold rights to him vide MOU executed in the month of July, 2014. The complainant had paid the Applicant No.1

total sum of Rs.50,00,000/-. It is alleged that the Applicants entered into a criminal conspiracy and executed another MOU in the month of September-2009 whereby the said leasehold rights were transferred in favour of the co-accused Vikesh Choithramani and Vicky Artwani despite receiving Rs.50 lakhs from the complainant towards the transfer of leasehold rights. The complainant therefore, claims that the Applicants and others had cheated him to the tune of Rs.50 lakhs.

3. The records prima facie reveal that the co-accused in whose favour the said leasehold rights had been transferred had filed a special civil suit No.133/ 2015 against the Applicant No.1 before the Civil Judge, Senior Division, Panvel. Parties in the said suit had entered into a consent term and said suit was decreed by order dated 21.4.2015. The records reveal that the complainant has also filed a Civil Suit No.389 of 2015 before the Civil Judge, Senior Division, Panvel for declaring that the MOU between the Applicants and the co-accused is null and void. Said suit is pending adjudication. The nature of allegations do not justify custodial interrogation. Similarly, the Applicant No.2 is only a witness to the said MOU and his presence is also not required for custodial interrogation. Both the Applicants are permanent residents of Raigad- District and there is no possibility of

their absconding and thwarting the course of justice. The Applicants do not have criminal antecedents.

4. In the facts and circumstances of the case, the application for anticipatory bail is allowed on the following terms and conditions:

- (I) In the event of arrest of the Applicants in Crime No.I-167 of 2015 registered with N.R.I. Police Station, Navi Mumbai, the Applicants be released on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand only) each with one solvent surety each in the like amount, to the satisfaction of the learned Judicial Magistrate, First Class, Panvel.
- (II) The Applicants shall report to the Investigating Officer, initially for a period of 4 days from 10.a.m. to 1.00 p.m., and thereafter as and when required by the Investigating Officer for the purpose of interrogation.
- (III) The Applicants shall not leave Thane and Raigad Districts till filing of the charge-sheet without prior permission of the learned Judicial Magistrate, First Class, Panvel.

(ANUJA PRABHUDESSAI, J.)