

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1506 OF 2017

1) CHETANA VIJAY THORAT)
2) SANJAY BHASKAR THORAT)
3) AKASH SANJAY THORAT)
4) BHASKAR TUKARAM THORAT)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Subhash Jha a/w. Ms.Sanjana Pardeshi i/b. Law Global,
Advocate for Applicants.

Ms.Veera Shinde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 11th OCTOBER 2017

P.C. :

1 Applicants who are accused in Crime No.I-81 of 2017 registered with Sanpada Police Station, Navi Mumbai, for offences punishable under Section 420, 406 read with 34 of the Indian Penal Code (IPC), by this application are seeking pre-arrest bail.

2 Heard the learned senior counsel appearing for applicants / accused. He argued that liberty of all applicants / accused are already protected by ad-interim order. It is further argued that the entire transaction of the First Informant was with co-accused Vijay Thorat and applicants / accused were in no manner concerned with the said transaction. On the contrary, applicant no.2 Sanjay Thorat who is brother of co-accused Vijay Thorat had attempted to intervene in the matter by repaying the amount of Rs.51,100/- to the First Informant. With vague allegations, all family members of co-accused Vijay Thorat are roped in the instant crime by the First Informant, and therefore, as no money was entrusted to applicants / accused by First Informant, their custodial interrogation is not warranted.

3 The learned APP opposed the application by contending that the row house in question is already sold to someone else and names of all applicants/accused are mentioned in the FIR.

4 I have carefully considered the rival submissions and also perused the FIR lodged by Kishore Dake on 7th July 2017. Allegations against present applicants / accused, who are wife, brother, nephew and father respectively of the co-accused Vijay Thorat are to the following effect :

First Informant Kishore Dake had entered into transaction to purchase row house belonging to co-accused Vijay Thorat for a consideration of Rs.1,22,50,000/-. He had paid part amount of Rs.5 lakh to Vijay Thorat in December 2014. First Informant further averred that from 21st January 2015 to 25th February 2015, from time to time, he had paid an amount totaling to Rs.47,50,000/- to Vijay Thorat as well as his family members. However, though Memorandum of Understanding (MOU) was entered into between the parties, sale deed was not effected and co-accused Vijay Thorat demanded further amount of Rs.3 lakh more, in addition to the agreed consideration. Ultimately, the sale deed was never executed by co-accused Vijay Thorat.

5 It is not in dispute that co-accused Vijay Thorat is owner of row house in respect of which MOU came to be executed between the parties. Applicants / accused herein are not party to that MOU. The learned APP fairly accepted that there is no material to demonstrate that any of applicants / accused have received any amount of consideration from First Informant Kishore Dake. The learned APP accepted the fact that ultimately, the subject row house was sold by co-accused Vijay Thorat to another persons.

6 Considering the fact that applicants / accused have not received any amount from First Informant Kishore Dake and they were not parties to the MOU, as well as the fact that none of them were owner of the subject row house, custodial interrogation of applicants / accused is not warranted. Hence the order :

ORDER

i) The application is allowed.

- ii) In the event of arrest in Crime No.I-81 of 2017 registered with Sanpada Police Station, Navi Mumbai, for offences punishable under Section 420, 406 read with 34 of the IPC, applicants / accused shall be released on bail on their executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount, by each of them.
- iii) Applicants / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.
- iv) As a condition of this order, applicants / accused shall attend the concerned Investigator for the purpose of investigation, on receipt of intimation in writing by them.
- v) The application is accordingly disposed of.

(A. M. BADAR, J.)