

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 279 OF 2017

Farooq Ahmed Baig.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Niranjan Mundargi i/b. Mr. Durgesh P. Jaiswal, advocate for Applicant.

Mr. R.M. Pethe, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : FEBRUARY 14, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in in Crime No. 263 of 2016 registered at Dongri Police Station for offence punishable under section 370, read with section 34 of the Indian Penal Code and section 24(A)(G) of the Immigration Act.

3 It is the case of the prosecution that on 2/8/2016 Gautam Kumar Sharma working as an assistant in the office of the Protector of Immigration at Santacruz lodged a report at the police station that on 3/12/2015 one Anwar Azim Shaikh had also filed a report contending therein that his wife wanted to go for Ummrah. He therefore, contacted travel agent Noor Mohd. Passport was prepared. Upon medical examination Firoza Anwar Shaikh was found to be unfit to travel. It was alleged that the applicant who was working as travel agent was also contacted. Despite the fact that she was medically unfit, he had prepared documents for her travel to Saudi Arabia including Visa. An agreement was executed by Firoza that she would work there for 2 years and she would receive salary for the same and in the eventuality, she had to return to India before the stipulated period, she would have to pay Rs. 1,50,000/-. She was sent on visit visa. It was subsequently converted into employees visa. It is alleged that Anwar wanted to get his wife Firoza to return to India as she had informed that she has to carry sundry jobs while

looking after old blind couple. With the help of the department of Embassy, Firoza returned to India. It is admitted position that before lodging of FIR, Firoza had returned to India.

4 Perused the papers of investigation It is clear that it was Imran who had offered the job to Firoza. He had given her a clear understanding that she had to work there as caretaker of the family for two years and they would take her for Umrrah. She had signed the agreement. The role attributed to the present applicant is that he had shown her the copy of the agreement which was to be executed between her and Imra Shaikh. Firoza has disclosed to the police that she was given a clear understanding that the agreement is being signed with Imran.

5 Learned Counsel for the applicant submits that there is no specific role attributed to the present applicant and hence, he deserves pre-arrest bail.

6 The learned APP submits that in all probabilities, it appears to be a racket of which the applicant could be a party and therefore, he should not be granted pre-arrest bail.

7 As on today, the papers of investigation do not indicate any incriminating material against the present applicant and therefore, he deserves pre-arrest bail. The co-accused shall not claim parity with the present applicant as the role assigned to Imran and Mohd. Ali are totally different.

8 The observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial.

9 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 263 of 2016 registered at Dongri Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more local solvent sureties in the like amount.
- (iii) The applicant shall report to the concerned police station from 18/2/2017 to 22/2/2017 everyday between 10.30 a.m. to 1 p.m. and cooperate with the Investigating Agency to the best of his capacity.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)