

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 719 OF 2017**

Lilawati Chandrakant Kudle	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO. 567 OF 2017
(For Intervention)
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 719 OF 2017**

Pervin Homi Irani	...Intervener
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IN THE MATTER BETWEEN :

Lilawati Chandrakant Kudle	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Sagar G. Talekar for the Applicant

Mr. S. S. Hulke, A.P.P for the Respondent-State

Mr. Sandeep Kadam I/b Mr. Rahul P. Jain for the Intervener/Complainant

PN Mr. S. M. Kare from Lonavala City Police Station, Pune (Rural) is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 11th JULY, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 446 of 2016 registered with the Lonavala City Police Station, Pune (Rural), for the alleged offences punishable under Sections 420, 447, 465, 467, 468, 471 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that the applicant is a bonafide purchaser of a flat at Bhangarwadi. He submitted that the applicant had purchased the said flat from Smt.Shila Shankar Ovhal vide a registered Sale Deed on 16th February, 2016. He submitted that the applicant was unaware of the fact, that Shila Ovhal had purchased the said flat in her own name on the basis of a forged Power of Attorney. He submitted that the applicant had paid a consideration of Rs.13 lakhs to Shila Ovhal by cheque and cash. He submitted that the cheque was drawn in the name of Shila Ovhal and as such the applicant is a bonafide purchaser.

4. Learned A.P.P submits that the Power of Attorney was purportedly given by the complainant's two brothers, to Shila Ovhal. He

does not dispute the fact that a consideration of Rs. 13 lakhs has been received by Shila Ovhal by cheque and cash, from the applicant.

5. Learned Counsel for the intervener opposed the application. According to the complainant, her deceased brothers had not given any Power of Attorney to Shila Ovhal and that Shila Ovhal has forged and fabricated the alleged Power of Attorney dated 15th July, 2005. He submitted that pursuant to the said forged and fabricated Power of Attorney, Shila Ovhal sold the flat to herself and then to the present applicant. He submits that there is a syndicate.

6. Perused the papers. A Power of Attorney was purportedly given by the complainant's two brothers, with respect to a flat, to Shila Ovhal, on the basis of which, Shila Ovhal transferred the said flat on her own name, by a registered Sale Deed in 2015. It appears that subsequently Shila Ovhal sold the very same flat to the applicant by a registered Sale Deed dated 16th February, 2016. The question whether the applicant was involved or not, or had knowledge that the Power of Attorney was fabricated, is a matter, which will be decided by the trial Court. It appears

that the applicant has paid a consideration of Rs. 13 lakhs to Shila Ovhal by cheque and cash. The applicant has attended the concerned Police Station as directed vide order dated 24th April, 2017.

7. Considering the role of the applicant, custodial interrogation of the applicant is not required. The application is allowed and the applicant is granted anticipatory bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall report to the Investigating Officer of the concerned Police Station as and when called;
- (iii) The applicant shall not tamper the evidence or attempt to influence the complainant, witnesses or any person concerned with the case;

- (iv) The applicant to cooperate with the conduct of the trial.
8. The application is disposed of in the aforesaid terms.
9. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.
10. In view of the above order, the intervention application being Criminal Application No. 567 of 2017 also stands disposed of.
11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.