IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1295 OF 2016

Waseem Ahmad Mohammed Hasnain Shah .. Applicant
Vs.
The State of Maharashtra & Anr. .. Respondents

......

Mr.Aniket Nikam a/w. Mr.Ashish Satpute, Mr.Piyush Toshiniwal, Advocate for the Applicant.

Mrs.Veera Shinde, APP for the Respondent – State.

Mr.Syed Asi Naqvi, Advocate for Respondent No.2.

Mr.S.M. Sonawane, PSI, Shantinagar Police Station, Bhiwandi.

......

CORAM : PRAKASH D. NAIK, J.

DATED : JULY 5, 2017.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.I-122 of 2016, registered with Shantinagar Police Station, Bhiwandi, District – Thane for the offences punishable under Sections 464, 465, 467, 468, 471, 420, 406 and 323 read with Section 34 of the IPC.

2 Vide order dated 28th April, 2017, it was recorded that the learned counsel on instructions from the applicant had

submitted that with a view to prove his *bonafide* and without prejudice to the rights and contentions, applicant would deposit an amount of Rs.3,00,000/-. The statement was accepted and the applicant was granted time to comply the statement. However, the said amount was not deposited. Learned advocate for the applicant on instructions submitted that genuine attempts were made by the applicant to deposit the said amount. However, it was not possible for him to do so. He, therefore, submitted that the application of the applicant may be heard on merit.

3 Heard the learned advocate for the applicant, learned APP and the learned advocate for the intervener. The prosecution case is that the applicant is the brother-in-law of the complainant. The applicant–accused executed a forged agreement of sale of flat no.101 situated at Survey No.33/2 at Bhiwandi and executed a sale deed in favour of Akram Mohammed Habib Idrisi and misappropriated the sale proceeds. It is alleged that the applicant had forged the signature of the complainant on the said agreement. The agreement was executed in the year 2012 which is unregistered. It is further alleged that the applicant had accepted the money from the aforesaid person to whom the flat was sold. It is further alleged that the applicant had executed a

leave and licence agreement with the complainant on 15th January, 2014 by suppressing the fact that the flat was sold in 2012.

4 Learned advocate for the applicant submitted that he has been falsely implicated in this case. It is submitted that the signatures appearing on the sale agreement are not forged by the applicant. He further pointed out that the occupier of the premises has filed a suit in the Civil Court for specific performance against the complainant and the developer in 2016. He pointed out that in the suit, it is stated that the complainant had requested defendant nos.1 and 2 to execute the registered sale deed before the Sub-Registrar in his name. But, the defendant did not do so on some pretext or the other. It is further mentioned that defendant no.1 i.e. the complainant had demanded an extra amount of Rs.1,20,000/-, as he has sold the flat at lower price. Learned advocate for the applicant, therefore, submitted that the applicant is not involved in the said crime. He further submitted that in any case matter relates to the documents and the custodial interrogation of the applicant is not necessary.

5 Learned APP and the advocate for the intervener opposed the bail application. Learned APP further submitted that the statement of Akram Mohammed Idrisi was recorded in which he attributed role to the applicant. It is further submitted that the signature appearing on the sale agreement has been forged and the complicity of the applicant is established. During the course of investigation, it is further submitted that the applicant–accused has executed a sale deed by committing forgery of signature of the complainant and accepted the consideration which was misappropriated.

6 Perused the documents on record. The complainant has also filed reply in which relevant documents are annexed. The applicant-accused had executed a leave and licence agreement with the complainant in 2014. The sale agreement was executed in 2012. *Prima facie,* it appears that the applicant had played a vital role in the said crime. The suit which is relied by the applicant was filed after registration of FIR which appears to be the counter-blast to the registration of FIR. *Prima facie,* the involvement of the applicant is established and, therefore, he is not entitled for anticipatory bail.

7 Hence, I pass the following order:

:: <u>O R D E R</u> ::

(i) Anticipatory Bail Application No.1295 of 2016 is rejected.

(**PRAKASH D. NAIK, J.)**