

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

ANTICIPATORY BAIL APPLICATION NO. 1553 OF 2017

Rohama Fazal Karim Ansari. ... Applicant.
Versus
The State of Maharashtra & anr. ... Respondents.

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1554 OF 2017**

Fazal Karim Saukatlal Ansari. ... Applicant.
Versus
The State of Maharashtra & anr. ... Respondents.

Mr. Hassnain Kaazi Sayyed a/w. Mr. Saifan Shaikh & R.K. Shaikh,
advocate for applicants.

Mr. Pravin Dabade i/b. Mr. V.B. Shivarkar, advocate for respondent
No. 2.

Ms. Veera Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : DECEMBER 22, 2017**

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State.

2 These are applications under section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 484 of 2016 registered at Kondhwa Police Station for the offence punishable under section 420, 465, 467, 468, 471 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that there was a transaction between the applicants and accused No. 1. That Vishal Shinde was the sole and absolute owner of the residential property and was intending to dispose of the same. It was a row house known as Dukes Home, situated at Undri, District Pune. It is the case of the prosecution that applicant Fazal Ansari alongwith one Gopichand Vijay Malani had approached Vishal Shinde and had enquired about the property showing willingness to purchase the same. It is alleged that Vishal Shinde had shown the property documents to them. It is further the case of the prosecution that on the basis of the documents, the applicants had formed an opinion that Vishal Shinde is the absolute owner of the said properties and had therefore, wanted to

purchase the same. Subsequently, it had transpired that the said property was standing in the name of the father of the complainant i.e. Ramesh Tikamdas Jadhvani. The sale deed was purportedly shown to be executed between Vishal Nandkumar Shinde and Ramesh Tikamdas Jadhvani. The complainant had subsequently realised that a fraud has been played upon him. It also appeared that the complainant had issued 3 cheques in favour of Vishal Shinde who is the accused No. 1 to the tune of Rs. 7 Lakhs, Rs. 5 Lakhs and Rs. 7 Lakhs and the said cheques were dishonoured.

4 In the course of hearing of these applications, the applicants who at present are in possession of the suit property have undertaken to vacate the suit premises within two months i.e. by 28/2/2018 and hand over the vacant possession to the complainant. This may rest the whole dispute between the parties. As on today also the learned Counsel for the applicants herein submits that he was also cheated by the original accused No. 1 and had no intention of cheating the original owner of the said property of the complainant.

5 The learned Counsel for the applicants upon instructions from the applicants who are present in the court gives an oral undertaking that the applicants would abide by the assurances given to this Court and would vacate the premises on or before, 28/2/2018 and hand over vacant possession to the complainant.

6 It is in these circumstances that the applicants deserve to be granted pre-arrest bail.

7 Once the issue is settled between the parties i.e. after the applicants hand over the receipt of Rs. 50,000/- which is paid towards maintenance of the society, in the eventuality that the applicants settle their issues, they preserve their rights to approach the concerned court for seeking relief of quashing of FIR. However, it is not necessary to consider the same at this stage.

8 The above observations are prima facie in nature and restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Trial Court shall not be influenced by the same at the time of hearing of application for quashing of FIR or discharge application or at the time of trial.

9 Hence, following order is passed :

ORDER

- i) The applications are allowed.
- ii) In the event of arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.

10 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)