Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION No. 1777 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1778 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1779 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1780 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1781 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1782 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1783 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1784 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1785 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1786 OF 2016
WITH
ANTICIPATORY BAIL APPLICATION No. 1787 OF 2016

Abhijit Subash Gaikwad & Anr. ... Applicants
Vs.
The State of Maharashtra ... Respondent

Mr. A.P. Mundargi, Senior Advocate a/w. Mr. Niranjan Mundargi i/b. Siddharth R. Karpe for the Applicants.
Mrs. Rutuja Ambekar, APP, for Respondent – State.
Mr. Sardar P. Patil, P.I., EOW, Pune present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **6th February, 2017.**

P.C.:

All these Applications are moved by the applicants/accused under section 438 of Cr. P.C. The offences are registered at the instance of different complainants on different dates in the month of May, 2016 for cheating and forgery against the applicants/accused and other accused, the details of which are as under:

S.No.	A.B.A. No.	Name of the Complainant	C.R. No. and date
1	1777 of 2016	Rajaninath Patil	98 of 2016 dated 22/05/2016
1	1778 of 2016	Ashish Barman	92 of 2016 dated 19/05/2016
2	1779 of 2016	Pratik Gopal	93 of 2016 dated 19/05/2016
3	1780 of 2016	Paramjit Singh	123 of 2016 dated 05/06/2016
4	1781 of 2016	Deepak Kashyap	91 of 2016 dated 19/05/2016
5	1782 of 2016	Ashutosh Sinha	101 of 2016 dated 22/05/2016
6	1783 of 2016	Ravi Karia	99 of 2016 dated 22/05/2016
7	1784 of 2016	Sajid Kazi	100 of 2016 dated 22/05/2016
8	1785 of 2016	Mayank Khaire	107 of 2016 dated 28/05/2016
9	1786 of 2016	Shubham Juyal	124 of 2016 dated 05/06/2016
10	1787 of 2016	Pranav Singh	97 of 2016 dated 22/05/2016

As the applicants/accused are common in all these C.Rs and the nature of the offence is same, all the Anticipatory Bail Applications are disposed of by one common order.

2. It is the case of the complainants that they have booked their respective flats in a building namely “Gracia” by Gaikwad-Tupe at Karadi, Pune. All the complainants have made partial payments towards the consideration of their respective flats in the year 2015. Thereafter they paid some more amounts mostly by cheques. They did not get the possession of their respective flats and therefore, they contacted the applicants/accused, who are the builders/developers of the said building. On contacting them, the complainants found that one Bhushan Saraf, who was working with applicants/accused as booking agent, has deceived all the complainants and taken away the money and is absconding. The applicants/accused, therefore, did not accept the responsibility of giving possession of the flats to the complainants and thereafter the complainant realized that they were cheated and therefore they lodged complaints in respect of their transactions.

3. The learned senior counsel for the applicants/accused have submitted that the applicants/accused are builders/developers and they are having partnership in the name of M/s. A.G. Construction and they also have entered into a joint venture as a builder/developer for a building namely “Gracia” by Gaikwad-Tupe at Karadi. The learned senior counsel submitted that today 76 flats in the said building are sold out and possession of the said flats are given to different purchasers. He further

submitted that one Bhushan Saraf had fraudulently accepted all the cheques of these 11 complainants in the name of A.G. Construction, proprietary concern. Thus, all the cheques were deposited in the bogus account of A.G. Construction opened by Bhushan Saraf and thus he has cheated all the 11 persons totalling to Rs.2,08,01,000/-. He further submitted that A.G. Construction is a partnership firm of both the applicants/accused, however, A.G. Construction which is opened by Bhushan Saraf is shown as proprietory concern and he was shown as sole proprietor. The learned senior counsel further submitted that when these complainants enquired the applicants/accused about taking of the flats in the building namely “Gracia” by Gaikwad Tupe, at that time, the applicants/accused realized that Bhushan Saraf has cheated some persons in their names and therefore applicant/accused Abhijit Gaikwad approached the police and gave information and pursuant to which, the offence was registered against Bhushan Saraf at C.R. No. 5 of 2016 with Chandannagar Police Station on 13th January, 2016 for the offences punishable under sections 420, 465, 467 and 471 of Indian Penal Code. The learned senior counsel further submitted that by order dated 26th October, 2016 this Court has granted interim protection to the applicants/accused on condition that they shall deposit an amount of Rs.2,08,01,000/- in the registry and accordingly the applicants/accused have deposited the said amount in the registry. He produced the photocopy of the receipt of the said payment. He submitted that these applicants/accused be protected by granting anticipatory bail.

4. Learned APP while opposing these Anticipatory Bail Applications have submitted that all the complainants in their first information have stated that applicant/accused Abhijit has directed the complainants to contact their agent Bhushan Saraf and pursuant to which the complainants have contacted Bhushan Saraf and made payments by cheques in the name of A.G. Construction as asked by Bhushan Saraf. Learned APP submitted that the complainants are cheated by giving a false promise of getting flats and neither the booking was done nor the possession was given. The receipts issued in the name of complainants against the cheques are also bogus. She submitted that the applicants/accused have paid brokerage to Bhushan Saraf. To that effect, the Investigating officer has collected the extract of bank account of the firm.

5. Perused the respective complaints and the documents produced herein. Considered the submissions of both the counsel. It appears that Bhushan Saraf was working as agent or sub-agent for the applicants/accused. However, after going through the complaint in C.R. No. 05 of 2016 dated 13th January, 2016 and after going through the photocopy of the form submitted by Bhushan Saraf at the time of opening

of the account, *prima facie* it appears that Bhushan Saraf has opened a fake account in the name of A.G. Construction where he represented himself as proprietor. Also considered the order passed by this Court on 26th October, 2016 and in view of this, I confirm the interim pre-arrest bail granted to the applicants/accused with the same bail bonds on the following terms and conditions:

O R D E R

i) Applications are allowed.

ii) The applicants/accused shall cooperate with the Investigating Officer and attend the concerned police station as and when called by the police.

iii) The applicants/accused shall not tamper with the evidence or pressurize the complainants;

iv) The applicants/accused shall not indulge into any criminal activity;

v) The applicants/accused shall not abscond or leave India without prior permission of the Court and furnish their permanent address to the Investigating Officer alongwith documentary proof.

6. The Applications for Anticipatory Bail stands disposed of accordingly.

(MRIDULA BHATKAR, J.)