IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2060 OF 2017

Yusuf Ibrahim Fulat ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.R.R.Dube Ptail i/b. Shraddha Dube Patil & Co., Advocate for the Applicant.

Mr.M.A.Vaid i/b. Vaid Associates, Advocate for the Intervenor.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 24th NOVEMBER 2017.

P.C. :

1 The applicant/accused in Crime No.95 of 2017 registered on 12/04/2017 at the instance of Dhanraj Manik Kharatmal, an employee from the office of the Sub-Registrar, Mumbai as per directions of the District Registrar, by this application, is seeking pre-arrest bail.

2 Heard the learned Advocate appearing for the applicant/accused. He argued that as many people from Chasa in Gujrat had migrated to the United Kingdom in past, they collected funds and formed a trust named as Chasa Sainlal Wal Jamat and

for helping Madarasa and Majjids, it was decided to purchase property at Mumbai in order to earn some income. Accordingly, out of funds collected by the trust, a property named Zainab Manzil/Raj Bahadoor Mansion came to be purchased in the name of seven persons out of which four were citizen of U.K. and three were Indian national. The Conveyance Deed was executed on 22/12/1972. Subsequently, one more trust was formed at Chasa which is named as Chasa Muslim Welfare Society. It was decided that the Trust at the U.K. will look after welfare activity at U.K. The learned Advocate further argued that that is how the property at Mumbai came to be sold in favour of Mr.Okay Estate Developers Pvt. Ltd. The learned Advocate argued that father of the present applicant was one of the owner of the property. The entire consideration was deposited in the bank account held by three persons and from the bank account, 50% amount was transferred to the Trust at the U.K. and 50% amount was transferred to the Trust at Chasa. The learned Advocate argued that the applicant is rustic person, who is studied up to 8^{th} Std. and resident of village named Chasa. All persons, who are legal heirs of deceased owners, were present for executing the Conveyance Deed as well as the affidavit as five of the owners of the property died due to passage of time.

3 I heard the learned Additional Public Prosecutor, who is assisted by the learned Advocate appearing for the Intervenor.

The learned Additional Public Prosecutor opposed the application by pointing out that for a period of two years sale proceeds were lying in the account opened by the applicant and co-accused. By point out the Sale Deed, the learned APP argued that an amount of Rs.10,00,000/- was paid in advance to each vendor. One of the co-sharer of the property named Alibhai Makda. is resident of the U.K. and he was not present at the time of the Sale Deed. He was impersonated by the co-accused. The cheque meant for said Alibhai was given to Darshan Builder and it was encashed.

4 I have carefully considered the rival submissions and also perused the record made available.

5 It is seen that on 12/09/2011 a Conveyance Deed came to be executed by seven persons posing to be owners of Zainab Manzil/Raj Bahadur Marg, Mumbai in favour of M/s.Okay Estate Developers Pvt. Ltd. of which co-accused Hamid Ansari is stated to be a Director. The FIR reflects that though Alibhai Makda is successor-in-title of one of the co-owner of this property, he being resident of the U.K. was not present at the time of execution of the instrument, but somebody else impersonated him.

6 In the case in hand Alibhai Makda has not lodged the FIR. In fact, the aggrieved person due to passing over of the imperfect title is Hamid Ansari of M/s.Okay Estate Developers

Pvt.Ltd., but he is also an accused in this case. The FIR is lodged by an employee of the State Government at the instance of his superior Officer. *Prima facie*, it is seen that the present applicant is also successor-in-title as his father was one of the co-owner of the property in question. Documents filed on record indicates that the amount of consideration was held in the joint account and subsequently, it was transferred to the respective Trust.

7 Considering the totality of circumstances, I am of the considered opinion that the custodial interrogation of the present applicant in such facts situation is not warranted. Interest of the Investigator can be served by directing the present applicant to join the investigation and to assist the Investigating Officer by furnishing necessary documents. Therefore, the Order :

(i) The application is allowed.

(ii) The applicant/accused in Crime No.95 of 2017 registered on 12/04/2017 at the instance of Dhanraj Manik Kharatmal, an employee from the office of the Sub-Registrar, Mumbai as per directions of the District Registrar, is directed to be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant shall not tamper with the prosecution evidence.

(iv) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

(v) As a condition of this Order, the Applicant/accused shall attend the concerned Police Station on 4th to 8th December 2017 in between 11.00 a.m. to 1.00 p.m. and thereafter as and when directed by the Investigating Officer for the purpose of investigation.

(vi) The applicant should inform his residential address as well as cellphone numbers, if any and he should continue to inform the Investigating Officer about changes in his residential address as well as cellphone numbers.

(vii) The applicant to deposit his passport with the Investigating Officer.

(A.M.BADAR J.)