

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

ANTICIPATORY BAIL APPLICATION NO.2189 OF 2016

Mahesh Rajendra Pingale & anr. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.R.S. Panchundkar for Applicants

Mr.S.S. Hulke, APP, for State

Mr.D.S. Mahadik, PSI, Khed police station – present

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: JANUARY 4, 2017

P.C. :

1. The application is filed u/s 438 of the CRPC for pre-arrest bail. The FIR was registered at the instance of Vijakumar Popatlal Shah for the offences punishable u/s 420 read with section 34 of the Indian Penal Code. The offence was registered at C.R. No.292 of 2016 with the Khed police station, Pune (Rural). The applicants/accused being the Power of Attorney holders of the land owner, fixed a land transaction with the complainant and accepted an amount of Rs.125,000/- on or about 7.1.2013. Thereafter, the applicants/accused entered into a fresh transaction of the same

land with accused No.4 and also entered into a sale deed of the said land for more money on 3.5.2014. Therefore, the complainant, who has paid Rs.125,000/- for the said land filed private complaint in the Court of the learned JMFC, Khed. The learned Magistrate gave directions u/s 156(3) of the CRPC to the police pursuant to which the police submitted a report and registered the offence against the present applicants.. Hence, this application.

2. The learned Counsel for the applicants/accused has submitted that the applicants are power of attorney holders of the owner of the land. He submitted that the applicants/accused accepted the transaction as alleged in the complaint. However, the fact that the complainant was hesitant to enter into the sale deed for the land is not disclosed in the FIR. He further submitted that as the complainant had some doubts about the title of the land, he hesitated to pay the entire amount and therefore, the applicants/accused have entered into a further land deal. The learned Counsel has further submitted that the complainant and the applicants/accused have executed a Memorandum of Understanding on 15.12.2016 and they have paid total of Rs.450,000/- by 4 cheques to the complainant, which includes the

amount of Rs.125,000/- plus interest thereon. He produced a certified copy of the said MoU.

3. The learned Prosecutor has opposed the said application. The police officer is present in the Court alongwith the papers. After obtaining instructions, the learned APP has confirmed the transaction of the payment.

4. Perused the FIR, the certified copy of the MoU which was executed between the complainant and the present applicants/accused. It shows that the amount of Rs.450,000/- was paid by the applicants/accused and was accepted by the complainant. In view of this, I am inclined to allow this application with the following order:

- i) In the event of arrest, the applicants/accused shall be released on bail upon furnishing a P.R. bond in the sum of Rs.10,000/- each with one or two sureties in the like amount;
- ii) The applicants/accused shall not tamper with the investigation;

iii) The applicants/accused shall not leave the jurisdiction of the concerned police station without permission of the Court;

ii) The applicants/accused shall attend the concerned police station as and when called.

5. Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)