

Sarnobat

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

ANTICIPATORY BAIL APPLICATION NO.534 OF 2018

Shrichand Rajaram Kukreja and another	..Applicants
Vs.	
The State of Maharashtra	..Respondent.

Mr.A.H.H. Ponda i/by Mr.Gaurav Parkar for the applicant.
Mr.S.R. Ganbavale for the Intervener.
Ms.Veera Shinde, APP for the State.

CORAM : P. N. DESHMUKH, J.

DATE : 10TH APRIL, 2018.

P. C. :

1. Heard learned counsel for applicants, learned APP and learned counsel for intervener. These applicants apprehending arrest in connection with complaint dated 23rd January, 2018 lodged with the Economic Offence Wing, Superintendent of Police, Kolhapur had filed this application seeking anticipatory bail.
2. Applicant Shrichand Rajaram Kukreja is Director of M/s. Bharat Builders and Developers have already visited office of Superintendent of Police, Kolhapur for interrogation on three occasions and as such co-operated preliminary investigation during the course of which his statement along with statement of applicant No. 1 is

recorded, who is Director of Company styled as M/s. Bharat Builders and Developers and applicant No. 2 is his son.

3. It appears that applicants constructed shopping complex while complainant who was on friendly terms with the applicant and as such was desirous of making investment in some construction upon which they entered in agreement and an amount of Rs.10 Crores was agreed to be invested by the complainant. It was further agreed that on construction, shops will be transferred to complainant on his making complete payment. However, around June, 2014 due to applicants suffering heavy losses approached complainant with request to complete payment of Rs.10 Crores as against total amount of Rs. 1 Crore 70 lakhs only paid by complainant and this is how dispute arose which has resulted into lodging of complaint against the applicants as aforesaid.

4. According to learned counsel for applicants, they apprehend their arrest in the complaint if they are again summoned to attend the investigating officer if called for any purpose and in that event seeks interim protection even as on today no FIR is registered against the applicants. On the earlier date a specific query put to learned counsel for applicants of the tenability of application in the absence of registered FIR, reliance is placed on law in the case of **Gurbaksh Singh Sibbia Vs. State of Punjab**, and **Sarabjit Singh Vs.**

State of Punjab, reported in **AIR 1960, S.C. 1632**, wherein it is laid down that application for anticipatory bail is tenable even without registration of FIR. Thus it is ruled that filing of FIR is not a condition precedent to exercise of power under Section 438 of Cr. P.C., what is remained to be established is the apprehension of arrest, in the offence which exists to establish even when no FIR is filed.

5. In the application , admittedly complaint is lodged against the applicants with the Economic Offence Wing, Kolhapur and the applicants in compliance to directions issued, had already attended to the investigating officer and admittedly statement of applicant No. 1 is recorded.

6. In view of law as aforesaid and facts involved in the application, it is necessary to issue suitable directions to the investigating agency that, if any crime is registered on the basis of complaint of Suresh Ahuja by Economic Offence Wing, attached to Superintendent of Police, Kolhapur or at Gandhi Nagar Police Station Kolhapur, investigating officer shall give 72 hours clear notice to the applicants before causing their arrest. It is clarified that such 72 hours notice shall be of all the working days.

7. Application stands disposed of as allowed in above terms.

[P. N. DESHMUKH , J.]

(11) aba-534-APPP-339