

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1441 OF 2017***

1. Sikander Allahbaksh	)	
2. Fatima Sikander Shaikh	)	
3. Ruksana Abbas Ali Shaikh	)..	Applicants
Versus		
The State of Maharashtra & Anr.		Respondents

Mr. Balasaheb R. Deshmukh, for the applicants.

Mr. S.R. Ronghe for orig. complainant.

Mr. S.H. Yadav, APP for the State.

Mr. B.K. Muthe, PSI, Sahakar Nagar Police Station present.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 31st January, 2018.

P.C. :

1. Heard. This is an application under Section 438 of Cr.P.C.
The applicants herein are apprehending their arrest in Crime No.164 of 2017 registered at Sahakar Nagar Police Station, Pune, for the offences punishable under Sections 420, 467, 468 and 471 read with Section 34 of the Indian Penal Code.
2. It is the case of the prosecution that Jamila Hussein Mistry lodged a report at the police station alleging therein that the applicants herein had

fabricated a deed of assignment bearing No. 5736 of 2000. According to the first informant, on 21.7.2000, there was a deed of assignment shown to be executed between Abbas Ali Shaikh, Samir Abbas Shaikh and Noorbi Hussain Mistry to which Fatima Sikandar Shaikh – applicant No.2 happens to be a consenting party. In fact, initially, the parties had agreed that there would be no third party interest created in the said property. However, Plot No.374 admeasuring 588 sq. ft. was transferred in the name of Husseinuddin Karim Mistry, whereas right to reside in the said property was given to Hussainuddin Karim Mistry.

3. On the basis of the said report, Crime No. 164 of 2017 was registered. It was the contention of the original complainant that the deed of assignment is forged and fabricated and the franking fees have not been deposited with the Revenue authorities. The complainant had filed an application under the Right to Information Act, 2005 as to when the franking facility had started in the Registry at Haveli and the information that was given was that it started on 1.11.2000, whereas the document is dated 21.7.2000.

4. Today, the learned APP has filed a report which shows that the franking facility had started on 17.7.2000 and the fees deposited towards

the assignment deed have been duly received by the Revenue Authorities.

5. The learned counsel for the complainant submits that the Revenue authorities have taken a inconsistent stand that the information given to the complainant was that the franking was started on 1.9.2000 and therefore further investigation is not necessary. However, the report which is submitted by the learned APP clearly shows that the franking facility had started on 17.7.2000. The dispute, prima facie, appears to be of a civil nature. In the above mentioned facts, the applicants deserve to be granted pre-arrest bail.

6. However, it is made clear tha the observations are restricted to an application under Section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial or any civil proceedings.

ORDER

(i) The application is allowed.

(ii) In the event of arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or more solvent sureties in the like amount.

(iii) The applicants shall report to the concerned police station as and when called.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)