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

ANTICIPATORY BAIL APPLICATION NO.1522 OF 2017

Vashu Ganshamdas Duseja & Anr.

... Applicants

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Ganesh Gole i/b Ateet Shiroadkar for applicant.

Ms. P.N. Dabholkar, APP for State.

Mr. R.D. Suryawanshi for respondent No.2.

CORAM : A.S.GADKARI, J.

DATE : 4th June 2018.

P.C.:

1] By an Order dated 31st August 2017, the applicant was granted interim relief.

2] Heard the learned Counsel for the applicant and the learned APP for State. Perused the record.

3] The prosecution case in nutshell is that, the applicant No.1 had mortgaged his residential flat with the first informant and had accepted Rs.15.00 lakhs by way of loan. On 3.12.2016 at about 1.30 p.m the first informant and applicant No.1 were proceeding on motorcycle . The first informant was carrying a bag containing Mortgage Deed (Gahankhat) and

a cash of Rs.17,000/-. On the way they stopped at Sri Shankar Temple to take Darshan and at that time, the first informant saw a girl wearing T-Shirt and Jeans-pant going out of the said temple with the plastic bag of the first informant. The first informant therefore realized that the said girl was the applicant No.2 who is the daughter of the applicant No.1 and under the pretext of darshan she (the applicant No.2) committed theft of the property of the first informant. The record indicates that, the alleged incident occurred on 3.12.2016 and the present crime is registered on 28.5.2017 i.e. after a gap of more than five months.

4] It is to be noted here that, the applicant No.1 addressed a Notice through his Advocate dated 3.1.2017 to the first informant alleging illegal demand from applicant No.1. The first informant replied it through his Advocate by reply dated 13.01.2017, however, the said reply is silent about the alleged incident in question which took place on 3.12.2016. Even otherwise, a bare perusal of the first information report would prima facie indicate the malafide motive of the first informant in impleading the applicant No.2 i.e. daughter of the applicant No.1 in the present crime. On a specific query put to the learned APP that, whether the first informant has handed over a copy of the alleged Mortgage Deed, it is informed that it was

not a Mortgage Deed but the same is a Memorandum-Of-Understanding entered into between the first informant and the applicant No.1. The first information report clearly makes a mention about the Mortgage Deed (Gahankhat) and not M.O.U. This is the further reason for creating doubt in the mind of the Court about the bonafide and genuineness of the first informant in lodging the present crime.

5] In view of the above, interim relief granted by Order dated 31st August 2017 is hereby confirmed.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)